

104TH CONGRESS
1ST SESSION

S. 735

To prevent and punish acts of terrorism, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 27 (legislative day, APRIL 24), 1995

Mr. DOLE (for himself, Mr. HATCH, Mr. NICKLES, Mr. THURMOND, Mr. SIMPSON, Mr. BROWN, Mr. KYL, and Mr. GRAMM) introduced the following bill; which was read the first time

A BILL

To prevent and punish acts of terrorism, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Comprehensive Terror-
5 ism Prevention Act of 1995”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—SUBSTANTIVE CRIMINAL LAW ENHANCEMENTS

- Sec. 101. Increased penalty for conspiracies involving explosives.
- Sec. 102. Acts of terrorism transcending national boundaries.

- Sec. 103. Conspiracy to harm people and property overseas.
- Sec. 104. Increased penalties for certain terrorism crimes.
- Sec. 105. Firearms and explosives.
- Sec. 106. Penalty for possession of stolen explosives.
- Sec. 107. Enhanced penalties for use of explosives or arson.

TITLE II—COMBATING INTERNATIONAL TERRORISM

- Sec. 201. Findings.
- Sec. 202. Prohibition on assistance to countries that aid terrorist states.
- Sec. 203. Prohibition on assistance to countries that provide military equipment to terrorist states.
- Sec. 204. Opposition to assistance by international financial institutions to terrorist states.
- Sec. 205. Antiterrorism assistance.
- Sec. 206. Jurisdiction for lawsuits against terrorist states.
- Sec. 207. Technology transfers to terrorist states.
- Sec. 208. Report on support for international terrorists.

TITLE III—ALIEN REMOVAL

- Sec. 301. Alien terrorist removal.
- Sec. 302. Extradition of aliens.
- Sec. 303. Changes to the Immigration and Nationality Act to facilitate removal of alien terrorists.
- Sec. 304. Access to certain confidential immigration and naturalization files through court order.

TITLE IV—CONTROL OF FUNDRAISING FOR TERRORISM ACTIVITIES

- Sec. 401. Prohibition on terrorist fundraising.
- Sec. 402. Correction to material support provision.

TITLE V—ASSISTANCE TO FEDERAL LAW ENFORCEMENT AGENCIES

Subtitle A—Antiterrorism Assistance

- Sec. 501. Study and report on domestic terrorism.
- Sec. 502. Federal Bureau of Investigation counterintelligence.
- Sec. 503. Administrative subpoenas for common carriers and innkeepers.
- Sec. 504. Increase in maximum rewards for information concerning international terrorism.
- Sec. 505. Federal Bureau of Investigation report.

Subtitle B—Intelligence

- Sec. 511. Study and report on electronic surveillance.
- Sec. 512. Wiretap authority for terrorism and related offenses.
- Sec. 513. Participation of foreign and State government personnel in interceptions of communications.
- Sec. 514. Disclosure of intercepted communications to foreign law enforcement agencies.
- Sec. 515. Authorization for interceptions of communications in certain terrorism related offenses.

Subtitle C—Additional Funding for Law Enforcement

- Sec. 521. Federal Bureau of Investigation assistance to combat terrorism.
- Sec. 522. Authorization of additional appropriations for the United States Customs Service.
- Sec. 523. Authorization of additional appropriations for the Immigration and Naturalization Service.
- Sec. 524. Drug Enforcement Administration.
- Sec. 525. Department of Justice.
- Sec. 526. Funding source.

TITLE VI—TERRORIST INTERDICTION

- Sec. 601. Terrorist interdiction.

TITLE VII—CRIMINAL PROCEDURAL IMPROVEMENTS

Subtitle A—Habeas Corpus Reform

- Sec. 701. Filing deadlines.
- Sec. 702. Appeal.
- Sec. 703. Amendment of Federal Rules of Appellate Procedure.
- Sec. 704. Section 2254 amendments.
- Sec. 705. Section 2255 amendments.
- Sec. 706. Limits on second or successive applications.
- Sec. 707. Death penalty litigation procedures.
- Sec. 708. Technical amendment.

Subtitle B—Criminal Procedural Improvements

- Sec. 721. Clarification and extension of criminal jurisdiction over certain terrorism offenses overseas.
- Sec. 722. Extension of territorial sea.
- Sec. 723. Jurisdiction of United States courts over acts of international terrorism.
- Sec. 724. Addition of foreign murder as a money laundering predicate.
- Sec. 725. Expansion of weapons of mass destruction statute.
- Sec. 726. Addition of terrorist offenses to the RICO statute.
- Sec. 727. Addition of terrorism offenses to the money laundering statute.
- Sec. 728. Clarification of maritime violence jurisdiction.
- Sec. 729. Protection of current or former officials, officers, or employees of the United States.
- Sec. 730. Addition of conspiracy to terrorism offenses.
- Sec. 731. Pretrial detention for possession of firearms or explosives by convicted felons.
- Sec. 732. Inclusion of alien smuggling as a RICO predicate.

TITLE VIII—MARKING OF PLASTIC EXPLOSIVES

- Sec. 801. Implementation of the convention on the marking of plastic explosives.
- Sec. 802. Study on tagging of explosive materials.

TITLE IX—MISCELLANEOUS PROVISIONS

- Sec. 901. Severability.

1 **TITLE I—SUBSTANTIVE**
2 **CRIMINAL LAW ENHANCEMENTS**

3 **SEC. 101. INCREASED PENALTY FOR CONSPIRACIES IN-**
4 **VOLVING EXPLOSIVES.**

5 Section 844 of title 18, United States Code, is
6 amended by adding at the end the following new sub-
7 section:

8 “(n) Except as otherwise provided in this section, a
9 person who conspires to commit any offense defined in this
10 chapter shall be subject to the same penalties (other than
11 the penalty of death) as those prescribed for the offense
12 the commission of which was the object of the conspir-
13 acy.”.

14 **SEC. 102. ACTS OF TERRORISM TRANSCENDING NATIONAL**
15 **BOUNDARIES.**

16 (a) REDESIGNATION.—(1) Chapter 113B of title 18,
17 United States Code (relating to torture) is redesignated
18 as chapter 113C.

19 (2) The chapter analysis of title 18, United States
20 Code, is amended by striking “113B” the second place
21 it appears and inserting “113C”.

22 (b) OFFENSE.—Chapter 113B of title 18, United
23 States Code, is amended by inserting after section 2332a
24 the following new section:

1 **“§ 2332b. Acts of terrorism transcending national**
2 **boundaries**

3 “(a) PURPOSE.—The purpose of this section is to
4 provide Federal law enforcement the fullest possible basis
5 allowed under the Constitution to address acts of inter-
6 national terrorism occurring within the United States.

7 “(b) PROHIBITED ACTS.—

8 “(1) Whoever, in a circumstance described in
9 subsection (c)—

10 “(A) kills, kidnaps, maims, commits an as-
11 sault resulting in serious bodily injury, or as-
12 saults with a dangerous weapon any individual
13 within the United States; or

14 “(B) destroys or damages any structure,
15 conveyance or other real or personal property
16 within the United States,
17 in violation of the laws of any State or the United
18 States shall be punished as prescribed in subsection
19 (d).

20 “(2) Whoever threatens, attempts, or conspires
21 to commit an offense under subsection (b)(1) shall
22 be punished under subsection (d).

23 “(c) JURISDICTIONAL BASES.—

24 “(1) This section applies to conduct described
25 in subsection (b) if—

1 “(A) the mail, or any facility utilized in
2 interstate commerce, is used in furtherance of
3 the commission of the offense or to effect the
4 escape of any offender after the commission of
5 such offense;

6 “(B) the victim, or intended victim, is the
7 United States Government or any official, offi-
8 cer, employee, or agent of the legislative, execu-
9 tive, or judicial branches, or of any department
10 or agency, of the United States;

11 “(C) the structure, conveyance or other
12 real or personal property was in whole or in
13 part owned, possessed, or used by, or leased to
14 the United States, or any department or agency
15 thereof;

16 “(D) the offense is committed in the terri-
17 torial sea (including the airspace above and the
18 seabed and subsoil below, and artificial islands
19 and fixed structures erected thereon) of the
20 United States; or

21 “(E) the offense is committed in places
22 within the United States that are in the special
23 maritime and territorial jurisdiction of the
24 United States.

1 “(2) Jurisdiction shall exist over all principals,
2 coconspirators, and accessories after the fact, of an
3 offense under subsection (b) if at least one of the
4 circumstances described in paragraph (1) is applica-
5 ble to at least one offender.

6 “(d) PENALTIES.—

7 “(1) Whoever violates this section shall, in addi-
8 tion to the punishment provided for any other crime
9 charged in the indictment, be punished—

10 “(A) if death results to any person, by
11 death, or by imprisonment for any term of
12 years or for life;

13 “(B) for kidnapping, by imprisonment for
14 any term of years or for life;

15 “(C) for maiming, by imprisonment for not
16 more than 35 years;

17 “(D) for assault with a dangerous weapon
18 or assault resulting in serious bodily injury, by
19 imprisonment for not more than 30 years;

20 “(E) for destroying or damaging any
21 structure, conveyance, or other real or personal
22 property, by imprisonment for not more than
23 25 years;

24 “(F) for attempting or conspiring to com-
25 mit the offense, for any term of years up to the

1 maximum punishment that would have applied
2 had the offense been completed; and

3 “(G) for threatening to commit the of-
4 fense, by imprisonment for not more than 10
5 years.

6 “(2) Notwithstanding any other provision of
7 law, the court shall not place on probation any per-
8 son convicted of a violation of this section.

9 “(3) Notwithstanding any other provision of
10 law, a term of imprisonment imposed under this sec-
11 tion shall not run concurrently with any other term
12 of imprisonment.

13 “(e) LIMITATION ON PROSECUTION.—No indictment
14 for any offense described in this section shall be sought
15 by the United States except after the Attorney General,
16 or the highest ranking subordinate of the Attorney Gen-
17 eral with responsibility for criminal prosecutions, has
18 made a written certification that, in the judgment of the
19 certifying official—

20 “(1) such offense, or any activity preparatory to
21 its commission, transcended national boundaries;
22 and

23 “(2) the offense appears to have been intended
24 to coerce, intimidate, or retaliate against a govern-

1 ment or a civilian population, including any segment
2 thereof.

3 “(f) INVESTIGATIVE RESPONSIBILITY.—Violations of
4 this section shall be investigated by the Attorney General.
5 Assistance may be requested from any Federal, State, or
6 local agency, including the Army, Navy, and Air Force,
7 any statute, rule, or regulation to the contrary notwith-
8 standing.

9 “(g) EVIDENCE.—

10 “(1) In a prosecution under this section, the
11 United States shall not be required to prove knowl-
12 edge by any defendant of a jurisdictional base al-
13 leged in the indictment.

14 “(2) In a prosecution under this section that is
15 based upon the adoption of State law, only the ele-
16 ments of the offense under State law, and not any
17 provisions pertaining to criminal procedure or evi-
18 dence, are adopted.

19 “(h) EXTRATERRITORIAL JURISDICTION.—There is
20 extraterritorial Federal jurisdiction over—

21 “(1) any offense under subsection (b), including
22 any threat, attempt, or conspiracy to commit such
23 offense; and

1 “(2) conduct that, under section 3 of this title,
2 renders any person an accessory after the fact to an
3 offense under subsection (b).

4 “(i) DEFINITIONS.—As used in this section—

5 “(1) the term ‘commerce’ has the meaning
6 given such term in section 1951(b)(3) of this title;

7 “(2) the term ‘facility utilized in any manner in
8 commerce’ includes means of transportation, com-
9 munication, and transmission;

10 “(3) the term ‘national of the United States’
11 has the meaning given such term in section
12 101(a)(22) of the Immigration and Nationality Act
13 (8 U.S.C. 1101(a)(22));

14 “(4) the term ‘serious bodily injury’ has the
15 meaning given such term in section 1365(g)(3) of
16 this title;

17 “(5) the term ‘State’ includes a State of the
18 United States, the District of Columbia, and any
19 commonwealth, territory, or possession of the United
20 States; and

21 “(6) the term ‘territorial sea of the United
22 States’ means all waters extending seaward to 12
23 nautical miles from the baselines of the United
24 States determined in accordance with international
25 law.”.

1 (c) TECHNICAL AMENDMENT.—The chapter analysis
2 for Chapter 113B of title 18, United States Code, is
3 amended by inserting after the item relating to section
4 2332a, the following new item:

“2332b. Acts of terrorism transcending national boundaries.”.

5 (d) STATUTE OF LIMITATIONS AMENDMENT.—Sec-
6 tion 3286 of title 18, United States Code, is amended—

7 (1) by striking “any offense” and inserting
8 “any non-capital offense”;

9 (2) by striking “36” and inserting “37”;

10 (3) by striking “2331” and inserting “2332”;

11 (4) by striking “2339” and inserting “2332a”;

12 and

13 (5) by inserting “2332b (acts of terrorism tran-
14 scending national boundaries),” after “(use of weap-
15 ons of mass destruction),”.

16 (e) PRESUMPTIVE DETENTION.—Section 3142(e) of
17 title 18, United States Code, is amended by inserting “or
18 section 2332b” after “section 924(c)”.

19 (f) WIRETAP AMENDMENT.—Section 2518(11)(b)(ii)
20 of title 18, United States Code, is amended—

21 (1) by inserting “(A)” before “thwart” and

22 (2) by inserting “, or (B) commit a violation of
23 section 2332b of this title” after “facilities”.

1 **SEC. 103. CONSPIRACY TO HARM PEOPLE AND PROPERTY**
2 **OVERSEAS.**

3 (a) Section 956 of title 18, United States Code, is
4 amended to read as follows:

5 **“§ 956. Conspiracy to kill, kidnap, maim, or injure**
6 **certain property in a foreign country**

7 “(a)(1) Whoever, within the jurisdiction of the United
8 States, conspires with one or more other persons, regard-
9 less of where such other person or persons are located,
10 to commit at any place outside the United States an act
11 that would constitute the offense of murder, kidnapping,
12 or maiming if committed in the special maritime and terri-
13 torial jurisdiction of the United States, shall, if he or any
14 such other person commits an act within the jurisdiction
15 of the United States to effect any object of the conspiracy,
16 be punished as provided in subsection (a)(2).

17 “(2) The punishment for an offense under paragraph
18 (1) is—

19 “(A) imprisonment for any term of years or for
20 life if the offense is conspiracy to murder or kidnap;
21 and

22 “(B) imprisonment for not more than 35 years
23 if the offense is conspiracy to maim.

24 “(b) Whoever, within the jurisdiction of the United
25 States, conspires with one or more persons, regardless of
26 where such other person or persons are located, to injure

1 or destroy specific property situated within a foreign coun-
 2 try and belonging to a foreign government or to any politi-
 3 cal subdivision thereof with which the United States is at
 4 peace, or any railroad, canal, bridge, airport, airfield, or
 5 other public utility, public conveyance, or public structure,
 6 or any religious, educational, or cultural property so situ-
 7 ated, shall, if he or any such other person commits an
 8 act within the jurisdiction of the United States to effect
 9 any object of the conspiracy, be imprisoned not more than
 10 25 years.”.

11 (b) The chapter analysis for chapter 45 of title 18,
 12 United States Code, is amended by striking the item relat-
 13 ing to section 956 and inserting the following:

“956. Conspiracy to kill, kidnap, maim, or injure certain property in a foreign
 country.”.

14 **SEC. 104. INCREASED PENALTIES FOR CERTAIN TERROR-**
 15 **ISM CRIMES.**

16 (a) Title 18, United States Code, is amended—

17 (1) in section 114, by striking “maim or dis-
 18 figure” and inserting “torture, maim, or disfigure”;

19 (2) in section 371, by striking “five years” and
 20 inserting “20 years”;

21 (3) in section 755, by striking “two years” and
 22 inserting “five years”;

23 (4) in section 756, by striking “one year” and
 24 inserting “five years”;

1 (5) in section 878(a), by striking “by killing,
2 kidnapping, or assaulting a foreign official, official
3 guest, or internationally protected person”;

4 (6) in section 1113, by striking “three years or
5 fined” and inserting “seven years”;

6 (7) in section 1116(a), by inserting “or to
7 death,” after “imprisonment for life,”; and

8 (8) in section 2332(c), by striking “five” and
9 inserting “ten”.

10 (b) Section 1472(l)(1) of title 49 App., United States
11 Code is amended by striking “one” and inserting “ten”.

12 **SEC. 105. FIREARMS AND EXPLOSIVES.**

13 Section 924 of title 18, United States Code, is
14 amended—

15 (1) in subsection (h)—

16 (A) by inserting “or explosive materials (as
17 defined in section 841)” after “knowingly
18 transfers a firearm”; and

19 (B) by striking “not more than 10 years”
20 and inserting “not less than 10 years”; and

21 (2) by adding at the end the following new sub-
22 section:

23 “(o) Except as otherwise provided in this section, a
24 person who conspires to commit any offense defined in this
25 chapter shall be subject to the same penalties (other than

1 the penalty of death) as those prescribed for the offense
2 the commission of which was the object of the conspir-
3 acy.”.

4 **SEC. 106. PENALTY FOR POSSESSION OF STOLEN EXPLO-**
5 **SIVES.**

6 Section 842(h) of title 18, United States Code, is
7 amended by striking “to receive” and inserting “to pos-
8 sess, receive”.

9 **SEC. 107. ENHANCED PENALTIES FOR USE OF EXPLOSIVES**
10 **OR ARSON.**

11 Section 844 of title 18, United States Code, is
12 amended—

13 (1) in subsection (e), by striking “five” and in-
14 serting “10”;

15 (2) by amending subsection (f) to read as fol-
16 lows:

17 “(f)(1) Whoever maliciously damages or destroys, or
18 attempts to damage or destroy, by means of fire or an
19 explosive, any building, vehicle, or other personal or real
20 property in whole or in part owned, possessed, or used
21 by, or leased to, the United States, any department or
22 agency thereof, or any institution or organization receiving
23 Federal financial assistance shall be imprisoned for not
24 less than 5 years and not more than 20 years, fined the

1 greater of \$100,000 or the cost of repairing or replacing
2 any property that is damaged or destroyed, or both.

3 “(2) Whoever engages in conduct prohibited by this
4 subsection shall be imprisoned not less than 7 years and
5 not more than 40 years, fined the greater of \$200,000
6 or the cost of repairing or replacing any property that is
7 damaged or destroyed, or both, if the conduct results in
8 personal injury to any person, including any public safety
9 officer performing duties, as a direct or proximate result
10 of such conduct.

11 “(3) Whoever engages in conduct prohibited by this
12 subsection shall be imprisoned for any term of years, for
13 life, or sentenced to death, fined the greater of \$200,000
14 or the cost of repairing or replacing any property that is
15 damaged or destroyed, or both, if the conduct results in
16 death to any person, including any public safety officer
17 performing duties, as a direct or proximate result of such
18 conduct.”;

19 (3) in subsection (h)—

20 (A) in the first sentence by striking “5
21 years but not more than 15 years” and insert-
22 ing “10 years”; and

23 (B) in the second sentence by striking “10
24 years but not more than 25 years” and insert-
25 ing “20 years”; and

1 (4) in subsection (i)—

2 (A) by striking “not more than 20 years,
3 fined the greater of a fine under this title or the
4 cost of repairing or replacing any property that
5 is damaged or destroyed,” and inserting “not
6 less than 5 years and not more than 20 years,
7 fined the greater of \$100,000 or the cost of re-
8 pairing or replacing any property that is dam-
9 aged or destroyed”;

10 (B) by striking “not more than 40 years,
11 fined the greater of a fine under this title or the
12 cost of repairing or replacing any property that
13 is damaged or destroyed,” and inserting “not
14 less than 7 years and not more than 40 years,
15 fined the greater of \$200,000 or the cost of re-
16 pairing or replacing any property that is dam-
17 aged or destroyed”; and

18 (C) by striking “7 years” and inserting
19 “10 years”.

20 **TITLE II—COMBATING**
21 **INTERNATIONAL TERRORISM**

22 **SEC. 201. FINDINGS.**

23 The Congress finds that—

24 (1) international terrorism is among the most
25 serious transnational threats faced by the United

1 States and its allies, far eclipsing the dangers posed
2 by population growth or pollution;

3 (2) the President should make efforts to
4 counter international terrorism a national security
5 priority, including the establishment of an office in
6 the White House to coordinate United States Gov-
7 ernment efforts to counter terrorism;

8 (3) the President should undertake immediate
9 efforts to organize an international conference,
10 under the auspices of the United Nations, to discuss
11 cooperative, multilateral responses to the threat of
12 international terrorism;

13 (4) the President should use all necessary
14 means, including covert action and military force, to
15 disrupt, dismantle and destroy infrastructure used
16 by international terrorists, including terrorist train-
17 ing facilities and safe havens;

18 (5) the Congress deplores decisions to ease,
19 evade, or end international sanctions on state spon-
20 sors of terrorism, including the recent decision by
21 the United Nations to allow airline flights to and
22 from Libya despite Libya's noncompliance with
23 United Nations resolutions; and

24 (6) the President should undertake efforts to
25 increase the international isolation of state sponsors

1 of international terrorism, including efforts to
2 strengthen international sanctions, and should op-
3 pose any future initiatives to ease sanctions on
4 Libya or other state sponsors of terrorism.

5 **SEC. 202. PROHIBITION ON ASSISTANCE TO COUNTRIES**
6 **THAT AID TERRORIST STATES.**

7 The Foreign Assistance Act of 1961 is amended by
8 adding immediately after section 620F the following new
9 section:

10 **“SEC. 620G. PROHIBITION ON ASSISTANCE TO COUNTRIES**
11 **THAT AID TERRORIST STATES.**

12 “No assistance under this Act shall be provided to
13 any country that provides assistance to the government
14 of any other country for which the Secretary of State has
15 made a determination under section 620A.”.

16 **SEC. 203. PROHIBITION ON ASSISTANCE TO COUNTRIES**
17 **THAT PROVIDE MILITARY EQUIPMENT TO**
18 **TERRORIST STATES.**

19 The Foreign Assistance Act of 1961, as amended by
20 section 202, is further amended by adding immediately
21 after section 620G the following new section:

1 **“SEC. 620H. PROHIBITION ON ASSISTANCE TO COUNTRIES**
2 **THAT PROVIDE MILITARY EQUIPMENT TO**
3 **TERRORIST STATES.**

4 “No assistance under this Act may be provided to any
5 country that provided military equipment through lease,
6 loan, grant, sale, or other means in the previous fiscal year
7 to any country for which the Secretary of State has made
8 a determination under section 620A, unless the President
9 determines and reports to Congress, not later than 15
10 days prior to providing such assistance, in accordance with
11 the procedures in section 634A, that such assistance is
12 in the national security interest of the United States.”.

13 **SEC. 204. OPPOSITION TO ASSISTANCE BY INTERNATIONAL**
14 **FINANCIAL INSTITUTIONS TO TERRORIST**
15 **STATES.**

16 The International Financial Institutions Act is
17 amended by inserting after section 1620 the following new
18 section:

19 **“SEC. 1621. OPPOSITION TO ASSISTANCE BY INTER-**
20 **NATIONAL FINANCIAL INSTITUTIONS TO TER-**
21 **RORIST STATES.**

22 “(a) IN GENERAL.—The Secretary of the Treasury
23 shall instruct the United States Executive Director of each
24 international financial institution to vote against any loan
25 or other use of the funds of the respective institution to
26 or for a country for which the Secretary of State has made

1 a determination under section 6(j) of the Export Adminis-
 2 tration Act of 1979 or section 620A of the Foreign Assist-
 3 ance Act of 1961.

4 “(b) DEFINITION.—For purposes of this section, the
 5 term ‘international financial institution’ includes—

6 “(1) the International Bank for Reconstruction
 7 and Development, the International Development
 8 Association, and the International Monetary Fund;

9 “(2) wherever applicable, the Inter-American
 10 Bank, the Asian Development Bank, the European
 11 Bank for Reconstruction and Development, the Afri-
 12 can Development Bank, and the African Develop-
 13 ment Fund; and

14 “(3) any similar institution established after the
 15 date of enactment of this section.”.

16 **SEC. 205. ANTITERRORISM ASSISTANCE.**

17 (a) FOREIGN ASSISTANCE ACT.—Section 573 of the
 18 Foreign Assistance Act of 1961 (22 U.S.C. 2349aa–2) is
 19 amended—

20 (1) in subsection (c), by striking “development
 21 and implementation of the antiterrorism assistance
 22 program under this chapter, including”;

23 (2) by amending subsection (d) to read as fol-
 24 lows:

1 “(d)(1) Arms and ammunition may be provided
2 under this chapter only if they are directly related to
3 antiterrorism assistance.

4 “(2) The value (in terms of original acquisition cost)
5 of all equipment and commodities provided under this
6 chapter may not exceed 30 percent of the funds made
7 available to carry out this chapter for that fiscal year.”;
8 and

9 (3) by striking subsection (f).

10 (b) ASSISTANCE TO FOREIGN COUNTRIES.—Notwith-
11 standing any other provision of law (except section 620A
12 of the Foreign Assistance Act of 1961) not more than
13 \$1,000,000 in assistance may be provided to a foreign
14 country for counterterrorism efforts in any fiscal year if—

15 (1) such assistance is for the purpose of pro-
16 tecting the property of the United States Govern-
17 ment or the life and property of any United States
18 citizen, or furthering the apprehension of any indi-
19 vidual involved in any act of terrorism against such
20 property or persons; and

21 (2) the appropriate committees of Congress are
22 notified not later than 15 days prior to the provision
23 of such assistance.

1 **SEC. 206. JURISDICTION FOR LAWSUITS AGAINST TERROR-**
2 **IST STATES.**

3 Section 1605 of title 28, United States Code, is
4 amended by inserting after subsection (d), the following
5 new section:

6 “(e) A foreign country designated as a state sponsor
7 of terrorism under section 6(j) of the Export Administra-
8 tion Act of 1979 or section 620A of the Foreign Assist-
9 ance Act of 1961 shall not be immune from the jurisdic-
10 tion of the courts of the United States.”.

11 **SEC. 207. TECHNOLOGY TRANSFERS TO TERRORIST**
12 **STATES.**

13 (a) CRITICAL TECHNOLOGY.—The Secretary of State
14 shall provide an annual report to the Speaker of the House
15 of Representatives and to the Chairman of the Committee
16 on Foreign Relations of the United States Senate includ-
17 ing a list of all products and technologies that could be
18 used to promote or engage in terrorist acts, including nec-
19 essary support equipment, which shall be designated as
20 “critical technology” for the purposes of this Act.

21 (b) TECHNOLOGY TRANSFERS.—Notwithstanding
22 any other provision of law, no product or technology man-
23 ufactured or developed in the United States or by a sub-
24 sidiary of a United States body that has been determined
25 by the Secretary of State to be critical technology or prod-
26 uct under section (a) may be sold by the United States

1 Government or by private United States commercial inter-
2 ests to a state sponsor of terrorism as determined by the
3 Secretary of State under section 6(j) of the Export Admin-
4 istration Act of 1979 or section 620A of the Foreign As-
5 sistance Act of 1961 to any entity or organization operat-
6 ing within such a state sponsor of terrorism.

7 **SEC. 208. REPORT ON SUPPORT FOR INTERNATIONAL TER-**
8 **RORISTS.**

9 Not later than 60 days after the date of enactment
10 of this Act, and annually thereafter in the report required
11 by section 140 of the Foreign Relations Authorization Act,
12 Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), the Sec-
13 retary of State shall submit a report to the Speaker of
14 the House of Representatives and the Committee on For-
15 eign Relations of the Senate that includes—

16 (1) a detailed assessment of any country that
17 provided support of any type for international ter-
18 rorism, terrorist groups, or individual terrorists, in-
19 cluding countries that knowingly allowed terrorist
20 groups or individuals to transit or reside in their ter-
21 ritory, regardless of whether terrorist acts were com-
22 mitted on their territory by such individuals;

23 (2) a detailed assessment of individual country
24 efforts to take effective action against countries
25 named in section 6(j) of the Export Administration

1 Act of 1979 (50 U.S.C. App. 2405(j)), including the
2 status of compliance with international sanctions
3 and the status of bilateral economic relations; and
4 (3) United States Government efforts to imple-
5 ment this title.

6 **TITLE III—ALIEN REMOVAL**

7 **SEC. 301. ALIEN TERRORIST REMOVAL.**

8 The Immigration and Nationality Act (8 U.S.C. 1101
9 et seq.) is amended by inserting immediately after section
10 242B the following new section:

11 “REMOVAL OF ALIEN TERRORISTS

12 “SEC. 242C. (a) DEFINITIONS.—As used in this sec-
13 tion—

14 “(1) the term ‘alien terrorist’ means any alien
15 described in section 241(a)(4)(B);

16 “(2) the term ‘classified information’ has the
17 same meaning as defined in section 1(a) of the Clas-
18 sified Information Procedures Act (18 U.S.C. App.
19 IV);

20 “(3) the term ‘national security’ has the same
21 meaning as defined in section 1(b) of the Classified
22 Information Procedures Act (18 U.S.C. App. IV);

23 “(4) the term ‘special court’ means the court
24 described in subsection (d) of this section; and

1 “(5) the term ‘special removal hearing’ means
2 the hearing described in subsection (f) of this sec-
3 tion.

4 “(b) APPLICATION FOR USE OF PROCEDURES.—This
5 section shall apply whenever the Attorney General certifies
6 under seal to the special court that—

7 “(1) the Attorney General or Deputy Attorney
8 General has approved of the proceeding under this
9 section;

10 “(2) an alien terrorist is physically present in
11 the United States; and

12 “(3) removal of such alien terrorist by deporta-
13 tion proceedings described in sections 242, 242A, or
14 242B would pose a risk to the national security of
15 the United States because such proceedings would
16 disclose classified information.

17 “(c) CUSTODY AND RELEASE PENDING HEARING.—
18 (1) The Attorney General may take into custody any alien
19 with respect to whom a certification has been made under
20 subsection (b), and notwithstanding any other provision
21 of law, may retain such alien in custody in accordance with
22 this subsection.

23 “(2)(A) An alien with respect to whom a certification
24 has been made under subsection (b) shall be given a re-

1 lease hearing before the special court designated pursuant
2 to subsection (d).

3 “(B) The judge shall grant the alien release, subject
4 to such terms and conditions prescribed by the court (in-
5 cluding the posting of any monetary amount), pending the
6 special removal hearing if—

7 “(i) the alien is lawfully admitted for perma-
8 nent residence in the United States;

9 “(ii) the alien demonstrates that the alien, if re-
10 leased, is not likely to flee; and

11 “(iii) the alien demonstrates that release of the
12 alien will not endanger national security or the safe-
13 ty of any person or the community.

14 “(C) The judge may consider classified information
15 submitted in camera and ex parte in making a determina-
16 tion whether to release an alien pending the special hear-
17 ing.

18 “(d) SPECIAL COURT.—(1) The Chief Justice of the
19 United States shall publicly designate not more than 5
20 judges from up to 5 United States judicial districts to hear
21 and decide cases arising under this section, in a manner
22 consistent with the designation of judges described in sec-
23 tion 103(a) of the Foreign Intelligence Surveillance Act
24 (50 U.S.C. 1803(a)).

1 “(2) The Chief Justice may, in the Chief Justice’s
2 discretion, designate the same judges under this section
3 as are designated pursuant to section 1803(a) of title 50,
4 United States Code.

5 “(e) INVOCATION OF SPECIAL COURT PROCEDURE.—
6 (1) When the Attorney General makes the application de-
7 scribed in subsection (b), a single judge of the special
8 court shall consider the application in camera and ex
9 parte.

10 “(2) The judge shall invoke the procedures of sub-
11 section (f), if the judge determines that there is probable
12 cause to believe that—

13 “(A) the alien who is the subject of the applica-
14 tion has been correctly identified; and

15 “(B) a deportation proceeding described in sec-
16 tion 242, 242A, or 242B would pose a risk to the
17 national security of the United States because such
18 proceedings would disclose classified information.

19 “(f) SPECIAL REMOVAL HEARING.—(1) Except as
20 provided in paragraph (4), the special removal hearing au-
21 thorized by a showing of probable cause described in sub-
22 section (e)(2) shall be open to the public.

23 “(2) The alien shall have a right to be present at such
24 hearing and to be represented by counsel. Any alien finan-
25 cially unable to obtain counsel shall be entitled to have

1 counsel assigned to represent such alien. Counsel may be
2 appointed as described in section 3006A of title 18, United
3 States Code.

4 “(3) The alien shall have a right to introduce evi-
5 dence on his own behalf, and except as provided in para-
6 graph (4), shall have a right to cross-examine any witness
7 or request that the judge issue a subpoena for the pres-
8 ence of a named witness.

9 “(4) The judge shall authorize the introduction in
10 camera and ex parte of any item of evidence for which
11 the Attorney General determines that public disclosure
12 would pose a risk to the national security of the United
13 States because it would disclose classified information.
14 With respect to such evidence, the Attorney General shall
15 also submit to the court either—

16 “(A) a statement admitting relevant facts that
17 the specific evidence would tend to prove; or

18 “(B) a summary of the specific evidence pre-
19 pared in accordance with paragraph (5).

20 “(5)(A) The information submitted under paragraph
21 (4)(B) shall contain a summary of the classified informa-
22 tion that does not pose a risk to national security.

23 “(B) The judge shall approve the summary if the
24 judge finds that the summary is sufficient to inform the
25 alien of the general nature of the evidence that such per-

1 son is an alien as described in section 241(a), and to per-
2 mit the alien to prepare a defense.

3 “(C) The Attorney General shall cause to be delivered
4 to the alien of a copy of the summary approved under sub-
5 paragraph (B).

6 “(6) If the judge determines that the substituted evi-
7 dence described in paragraph (4)(B) will provide the alien
8 with substantially the same ability to make his defense as
9 would disclosure of the specific evidence, then the deter-
10 mination of deportation (described in subsection (g)) may
11 be made pursuant to this section.

12 “(g) DETERMINATION OF DEPORTATION.—If the de-
13 termination in subsection (f)(6) has been made, the judge
14 shall, considering the evidence on the record as a whole
15 (in camera and otherwise), require that the alien be de-
16 ported if the Attorney General proves, by clear and con-
17 vincing evidence, that the alien is subject to deportation
18 because such alien is an alien as described in section
19 241(a)(4)(B).

20 “(h) APPEALS.—(1) The alien may appeal a deter-
21 mination under subsection (g) to the United States Court
22 of Appeals for the District of Columbia Circuit, by filing
23 a notice of appeal with such court not later than 30 days
24 after the determination is made.

1 “(2) The Attorney General may appeal a determina-
2 tion under subsection (e), (f), or (g) to the court of appeals
3 for the Federal Circuit, by filing a notice of appeal with
4 such court not later than 20 days after the determination
5 is made under any one of such subsections.

6 “(3) When requested by the Attorney General, the
7 entire record of the proceeding under this section shall be
8 transmitted to the court of appeals under seal. The court
9 of appeals shall consider such appeal in camera and ex
10 parte.”.

11 **SEC. 302. EXTRADITION OF ALIENS.**

12 (a) SCOPE.—Section 3181 of title 18, United States
13 Code, is amended—

14 (1) by inserting “(a)” before “The provisions of
15 this chapter”; and

16 (2) by adding at the end the following new sub-
17 sections:

18 “(b) The provisions of this chapter shall be construed
19 to permit, in the exercise of comity, the surrender of per-
20 sons, other than citizens, nationals, or permanent resi-
21 dents of the United States, who have committed crimes
22 of violence against nationals of the United States in for-
23 eign countries without regard to the existence of any trea-
24 ty of extradition with such foreign government if the At-
25 torney General certifies, in writing, that—

1 “(1) evidence has been presented by the foreign
2 government that indicates that had the offenses been
3 committed in the United States, they would con-
4 stitute crimes of violence as defined under section 16
5 of this title; and

6 “(2) the offenses charged are not of a political
7 nature.

8 “(c) As used in this section, the term ‘national of the
9 United States’ has the meaning given such term in section
10 101(a)(22) of the Immigration and Nationality Act (8
11 U.S.C. 1101(a)(22)).”.

12 (b) FUGITIVES.—Section 3184 of title 18, United
13 States Code, is amended—

14 (1) in the first sentence by inserting after
15 “United States and any foreign government,” the
16 following: “or in cases arising under section
17 3181(b),”;

18 (2) in the first sentence by inserting after
19 “treaty or convention,” the following: “or provided
20 for under section 3181(b),”;

21 (3) in the third sentence by inserting after
22 “treaty or convention,” the following: “or under sec-
23 tion 3181(b),”.

1 **SEC. 303. CHANGES TO THE IMMIGRATION AND NATIONAL-**
2 **ITY ACT TO FACILITATE REMOVAL OF ALIEN**
3 **TERRORISTS.**

4 (a) Section 212(a)(3)(B) of the Immigration and Na-
5 tionality Act (8 U.S.C. 1182(a)(3)(B)) is amended to read
6 as follows:

7 “(B) TERRORISM ACTIVITIES.—

8 “(i) IN GENERAL.—Any alien who—

9 “(I) has engaged in a terrorism
10 activity, or

11 “(II) a consular officer or the At-
12 torney General knows, or has reason
13 to believe, is likely to engage after
14 entry in any terrorism activity (as de-
15 fined in clause (iii)),

16 is excludable. As used in clause (B)(i), the
17 term ‘representative’ includes an officer,
18 official, or spokesman of the organization
19 and any person who directs, counsels, com-
20 mands, or induces such organization or its
21 members to engage in terrorism activity.

22 “(ii) TERRORISM ACTIVITY DE-
23 FINED.—As used in this Act, the term ‘ter-
24 rorism activity’ means any activity that is
25 unlawful under the laws of the place where
26 it is committed (or which, if it had been

1 committed in the United States, would be
2 unlawful under the laws of the United
3 States or any State), and that involves any
4 of the following:

5 “(I) The hijacking or sabotage of
6 any conveyance (including an aircraft,
7 vessel, or vehicle).

8 “(II) The seizing or detaining,
9 and threatening to kill, injure, or con-
10 tinue to detain, another individual to
11 compel a third person (including a
12 governmental organization) to do or
13 abstain from doing any act as an ex-
14 plicit or implicit condition for the re-
15 lease of the individual seized or de-
16 tained.

17 “(III) A violent attack upon an
18 internationally protected person (as
19 defined in section 1116(b)(4) of title
20 18, United States Code) or upon the
21 liberty of such a person.

22 “(IV) An assassination.

23 “(V) The use of any—

1 “(aa) biological agent, chem-
2 ical agent, or nuclear weapon or
3 device, or

4 “(bb) explosive, firearm, or
5 other weapon (other than for
6 mere personal monetary gain),
7 with intent to endanger, directly, or
8 indirectly, the safety of one or more
9 individuals or to cause substantial
10 damage to property.

11 “(VI) A threat, attempt, or con-
12 spiracy to do any of the foregoing.

13 “(iii) ENGAGE IN TERRORISM ACTIV-
14 ITY DEFINED.—As used in this Act, the
15 term ‘engage in terrorism activity’ means
16 to commit, in an individual capacity or as
17 a member of an organization, an act of ter-
18 rorism activity or an act which the actor
19 knows, or reasonably should know, affords
20 material support to any individual, organi-
21 zation, or government which the actor
22 knows or reasonably should know has com-
23 mitted or plans to commit terrorism activ-
24 ity, including any of the following acts:

1 “(I) The preparation or planning
2 of terrorism activity.

3 “(II) The gathering of informa-
4 tion on potential targets for terrorism
5 activity.

6 “(III) The providing of any type
7 of material support, including a safe
8 house, transportation, communica-
9 tions, funds, false documentation or
10 identification, weapons, explosives, or
11 training.

12 “(IV) The soliciting of funds or
13 other things of value for terrorism ac-
14 tivity or for any terrorist organization.

15 “(V) The solicitation of any indi-
16 vidual for membership in a terrorist
17 organization, terrorist government, or
18 to engage in a terrorism activity.

19 “(iv) TERRORIST ORGANIZATION DE-
20 FINED.—As used in this Act, the term ‘ter-
21 rorist organization’ means—

22 “(I) an organization engaged in,
23 or that has a significant subgroup
24 that engages in, in terrorism activity,
25 regardless of any legitimate activities

1 conducted by the organization or its
2 subgroups; and

3 “(II) an organization designated
4 by the President under section 2339B
5 of title 18.

6 “(v) **TERRORISM DEFINED.**—As used
7 in this Act, the term ‘terrorism’ means
8 premeditated, politically motivated violence
9 perpetrated against noncombatant tar-
10 gets.”.

11 (b) Section 241(a)(4)(B) of the Immigration and Na-
12 tionality Act (8 U.S.C. 1251(a)(4)(B)) is amended to read
13 as follows:

14 “(B) **TERRORISM ACTIVITIES.**—Any alien who
15 has engaged, is engaged, or at any time after entry
16 engages in any terrorism activity (as defined in sec-
17 tion 212(a)(3)(B)).”.

18 (c) Section 291 of the Immigration and Nationality
19 Act (8 U.S.C. 1361) is amended by inserting after “cus-
20 tody of the Service.” the following new sentence: “The lim-
21 ited production authorized by this provision shall not ex-
22 tend to the records of any other agency or department
23 of the Government or to any documents that do not per-
24 tain to the respondent’s entry.”.

(a) Section 245A(c)(5)(C) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)(C)) is amended by striking “General may provide” through the period and inserting the following: “General may—

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1 retary of Commerce under section 8 of title
2 13, United States Code; and

3 “(ii) may authorize an application to
4 a Federal court of competent jurisdiction
5 for, and a judge of such court may grant,
6 an order authorizing disclosure of informa-
7 tion contained in the application of the
8 alien (as a result of an investigation of the
9 alien by an investigative officer or law en-
10 forcement officer) that is necessary to lo-
11 cate and identify the alien if—

12 “(I) such disclosure may result in
13 the discovery of information leading to
14 the location or identity of the alien;

15 “(II) such information is to be
16 used for identification of the alien
17 when there is reason to believe that
18 the alien has been killed or severely
19 incapacitated;

20 “(III) such disclosure may result
21 in the discovery of information leading
22 to the location or identity of the alien;

23 “(IV) such disclosure (and the
24 information discovered as a result of
25 such disclosure) will be used only for

1 criminal law enforcement purposes as
2 against the alien whose file is being
3 accessed;

4 “(V) may furnish information
5 under this section with respect to an
6 alien to an official coroner (upon the
7 written request of the coroner) for the
8 purposes of permitting the coroner to
9 identify a deceased individual; and

10 “(VI) may provide, in the Attor-
11 ney General’s discretion, for the fur-
12 nishing of information furnished
13 under this section in the same manner
14 and circumstances as census informa-
15 tion may be disclosed to the Secretary
16 of Commerce under section 8 of title
17 13, United States Code.”.

18 (b) Section 210(b) of the Immigration and National-
19 ity Act (8 U.S.C. 1160(b)) is amended—

20 (1) in paragraph (5), by inserting before the pe-
21 riod at the end the following: “, except as allowed
22 by a court order issued pursuant to paragraph (6)
23 of this subsection”; and

24 (2) in paragraph (6)—

1 (A) by striking the period at the end of
 2 subparagraph (C) and inserting a comma; and
 3 (B) by inserting before “Anyone who uses”
 4 the following: “except the Attorney General
 5 may authorize an application to a Federal court
 6 of competent jurisdiction for, and a judge of
 7 such court may grant, an order authorizing dis-
 8 closure of information contained in the applica-
 9 tion of the alien to be used (A) for identifica-
 10 tion of the alien when there is reason to believe
 11 that the alien has been killed or severely inca-
 12 pacitated, or (B) for criminal law enforcement
 13 purposes against the alien whose application is
 14 to be disclosed.”.

15 **TITLE IV—CONTROL OF FUND-**
 16 **RAISING FOR TERRORISM AC-**
 17 **TIVITIES**

18 **SEC. 401. PROHIBITION ON TERRORIST FUNDRAISING.**

19 (a) IN GENERAL.—Chapter 113B of title 18, United
 20 States Code, is amended by adding at the end the follow-
 21 ing new section:

22 **“§ 2339B. Fundraising for terrorist organizations**

23 “(a) FINDINGS AND PURPOSE.—

24 “(1) The Congress finds that—

1 “(A) terrorism is a serious and deadly
2 problem which threatens the interests of the
3 United States overseas and within our territory;

4 “(B) some foreign terrorist organizations,
5 acting through affiliated groups or individuals,
6 raise significant funds within the United States
7 or use the United States as a conduit for the
8 receipt of funds raised in other nations; and

9 “(C) the provision of funds to organiza-
10 tions that engage in terrorism serves to facili-
11 tate their terrorist endeavors, regardless of
12 whether the funds, in whole or in part, are in-
13 tended or claimed to be used for nonviolent pur-
14 poses.

15 “(2) The purpose of this section is to provide
16 the Federal Government the fullest possible basis,
17 consistent with the Constitution, to prevent persons
18 within the United States or subject to the jurisdic-
19 tion of the United States from providing funds, di-
20 rectly or indirectly, to foreign organizations, includ-
21 ing subordinate or affiliated persons, that engage in
22 terrorism activities.

23 “(b) AUTHORITY.—Notwithstanding any other provi-
24 sion of law, the President is authorized to regulate or pro-
25 hibit—

1 “(1) fundraising or the provision of funds for
2 use by or for the benefit of any foreign organization,
3 including persons assisting such organization in
4 fundraising, that the President has designated pur-
5 suant to subsection (c) as being engaged in terror-
6 ism activities; or

7 “(2) financial transactions with any such for-
8 eign organization,
9 within the United States or by any person subject to the
10 jurisdiction of the States anywhere.

11 “(c) DESIGNATION.—

12 “(1) Pursuant to the authority granted in sub-
13 section (b), the President is authorized to designate
14 any foreign organization based on finding that—

15 “(A) the organization engages in terrorism
16 activity as defined in section 212(a)(3)(B) of
17 the Immigration and Nationality Act (8 U.S.C.
18 1182(a)(3)(B)); and

19 “(B) the organization’s terrorism activities
20 threaten the national security, foreign policy, or
21 economy of the United States.

22 “(2) The President shall prepare and transmit
23 to Congress a report containing a list of the organi-
24 zations that the President has determined engage in,
25 or provide support for, terrorism activity (as defined

1 in section 212(a)(3)(B) of the Immigration and Na-
2 tionality Act (8 U.S.C. 1182(a)(3)(B)).

3 “(3) Pursuant to the authority granted in sub-
4 section (b), the President is authorized to designate
5 persons who are raising funds for, or acting for or
6 on behalf of, any foreign organization designated
7 pursuant to paragraph (1).

8 “(4)(A) If the President finds that the condi-
9 tions that were the basis for any designation issued
10 under this subsection have changed in such a man-
11 ner as to warrant revocation of such designation, or
12 that the national security, foreign relations, or eco-
13 nomic interests of the United States so warrant, the
14 President may revoke such designation in whole or
15 in part.

16 “(B) Not later than 7 calendar days after the
17 President makes a determination that an organiza-
18 tion no longer engages in, or supports, terrorism ac-
19 tivity, the President shall prepare and transmit to
20 Congress a supplemental report stating the reasons
21 for the determination.

22 “(5) Any designation, or revocation thereof, is-
23 sued pursuant to this subsection shall be published
24 in the Federal Register and shall become effective
25 immediately upon publication.

1 “(6) Any revocation of a designation shall not
2 affect any action or proceeding based on any con-
3 duct committed prior to the effective date of such
4 revocation.

5 “(d) JUDICIAL REVIEW.—Persons or organizations
6 designated by the President as engaging in, or supporting,
7 terrorism activities under this section may appeal such
8 designation in the District Court for the District of Co-
9 lumbia not later than 30 days after publication of such
10 designation in the Federal Register.

11 “(e) PROHIBITED ACTIVITIES.—

12 “(1) Except as authorized pursuant to the pro-
13 cedures in subsection (f), it shall be unlawful for any
14 person within the United States, or any person sub-
15 ject to the jurisdiction of the United States any-
16 where, to directly or indirectly, raise, receive, or col-
17 lect on behalf of, or furnish, give, transmit, transfer,
18 or provide funds to or for an organization or person
19 designated by the President under subsection (c), or
20 to attempt to do any of the foregoing.

21 “(2) It shall be unlawful for any person within
22 the United States or any person subject to the juris-
23 diction of the United States anywhere, acting for or
24 on behalf of any organization or person designated
25 under subsection (c)—

1 “(A) to transmit, transfer, or receive any
2 funds raised in violation of paragraph (1); or

3 “(B) to transmit, transfer, or dispose of
4 any funds in which any organization or person
5 designated pursuant to subsection (c) has an
6 interest.

7 “(f) AUTHORIZED TRANSACTIONS.—

8 “(1) The Secretary shall publish regulations,
9 consistent with this subsection, setting forth the pro-
10 cedures to be followed by persons seeking to raise or
11 provide funds for an organization designated under
12 subsection (c)(1).

13 “(2) Any person within the United States, or
14 any person subject to the jurisdiction of the United
15 States anywhere, who seeks to solicit funds for, or
16 transfer funds to, any organization or person des-
17 ignated under subsection (c) shall, regardless of
18 whether it has an agency relationship with the des-
19 ignated organization or person, first obtain a license
20 from the Secretary and may solicit funds or transfer
21 funds to a designated organization or person only as
22 permitted under the terms of a license issued by the
23 Secretary.

1 “(3) The Secretary shall grant a license only
2 after the person establishes to the satisfaction of the
3 Secretary that—

4 “(A) the funds are intended to be used ex-
5 clusively for religious, charitable, literary, or
6 educational, or any other nonterrorist purposes;
7 and

8 “(B) all recipient organizations in any
9 fundraising chain have effective procedures in
10 place to ensure that the funds—

11 “(i) will be used exclusively for reli-
12 gious, charitable, literary, or educational,
13 or any other nonterrorist purposes; and

14 “(ii) will not be used to offset a trans-
15 fer of funds to be used in terrorist activity.

16 “(4) Any person granted a license shall main-
17 tain books and records, as required by the Secretary,
18 that establish the source of all funds it receives, ex-
19 penses it incurs, and disbursements it makes. Such
20 books and records shall be made available for inspec-
21 tion not later than 3 business days after a request
22 by the Secretary. Any person granted a license shall
23 also have an agreement with any recipient organiza-
24 tion or person that the books and records of such or-
25 ganization or person, wherever located, shall be

1 made available for inspection of the Secretary upon
2 a request of the Secretary at a place and time agree-
3 able to the organization or person and the Secretary.

4 “(5)(A) The licensing requirement established
5 by this subsection shall automatically expire upon
6 publication of the revocation of a designation under
7 subsection (c)(4).

8 “(B) Any applicant denied a license under this
9 subsection may appeal to the District Court for the
10 District of Columbia.

11 “(g) SPECIAL REQUIREMENTS FOR FINANCIAL IN-
12 STITUTIONS.—

13 “(1) Except as authorized by the Secretary by
14 means of directives, regulations, or licenses, any fi-
15 nancial institution that becomes aware that it has
16 possession of or control over any funds in which an
17 organization or person designated under subsection
18 (c) has an interest, shall—

19 “(A) retain possession of or maintain con-
20 trol over such funds; and

21 “(B) report to the Secretary the existence
22 of such funds in accordance with the regula-
23 tions prescribed by the Secretary.

24 “(2) Any financial institution that fails to re-
25 port to the Secretary the existence of such funds

1 shall be subject to a civil penalty of \$250 per day
2 for each day that it fails to report to the Sec-
3 retary—

4 “(A) in the case of funds being possessed
5 or controlled at the time of the designation of
6 the organization or person, within 10 days after
7 the designation; and

8 “(B) in the case of funds whose possession
9 of or control over arose after the designation of
10 the organization or person, within 10 days after
11 the financial institution obtained possession of
12 or control over the funds.

13 “(h) INVESTIGATIONS.—Any investigation emanating
14 from a possible violation of this section, or of any license,
15 order, or regulation issued pursuant to this section, shall
16 be conducted by the Attorney General, except that inves-
17 tigations relating to—

18 “(1) a licensee’s compliance with the terms of
19 a license issued by the Secretary pursuant to sub-
20 section (f);

21 “(2) a financial institution’s compliance with
22 the requirements of subsection (g); and

23 “(3) civil penalty proceedings authorized pursu-
24 ant to subsection (j),

1 shall be conducted in coordination with the Attorney Gen-
2 eral by the office within the Department of the Treasury
3 responsible for licensing and civil penalty proceedings au-
4 thorized by this section. Any evidence of a criminal viola-
5 tion of this section arising in the course of an investigation
6 by the Secretary or any other Federal agency shall be re-
7 ferred immediately to the Attorney General for further in-
8 vestigation. The Attorney General shall timely notify the
9 Secretary of any action taken on referrals from the Sec-
10 retary, and may refer investigations to the Secretary for
11 remedial licensing or civil penalty action.

12 “(i) RECORDKEEPING AND REPORTING; CIVIL PRO-
13 CEDURES.—

14 “(1) Notwithstanding any other provision of
15 law, in exercising the authorities granted by this sec-
16 tion, the Secretary and the Attorney General may
17 require any person to keep a full record of, and to
18 furnish under oath, in the form of reports or other-
19 wise, complete information relative to any act or
20 transaction referred to in this section either before,
21 during, or after the completion thereof, or relative to
22 any funds referred to in this section, or as may be
23 necessary to enforce the terms of this section. In any
24 case in which a report by a person could be required
25 under this subsection, the Secretary or the Attorney

1 General may require the production of any books of
2 account, records, contracts, letters, memoranda, or
3 other papers or documents, whether maintained in
4 hard copy or electronically, in the control or custody
5 of such person.

6 “(2) In carrying out this section, the Secretary
7 and the Attorney General may hold hearings, sign
8 and issue subpoenas, administer oaths, examine wit-
9 nesses, and receive evidence.

10 “(3) In the case of contumacy by, or refusal to
11 obey a subpoena issued to, any person, the Attorney
12 General may invoke the aid of any court of the Unit-
13 ed States within the jurisdiction of which the inves-
14 tigation is carried on or of which the subpoenaed
15 person is an inhabitant, or in which the subpoenaed
16 person carries on business or may be found, to com-
17 pel compliance with the subpoena. The court may
18 issue an order requiring the subpoenaed person to
19 appear before the agency issuing the subpoena, or
20 other order or direction, to produce records, if so or-
21 dered, or to give testimony touching the matter
22 under investigation. Any failure to obey the order of
23 the court may be punished by the court as a con-
24 tempt thereof. All process in any such case may be

1 served in any judicial district in which such person
2 may be found.

3 “(j) PENALTIES.—

4 “(1) Any person who, with knowledge that the
5 donee is a designated entity, violates subsection (e)
6 shall be fined under this title, or imprisoned for up
7 to ten years, or both.

8 “(2)(A) Any person who fails to maintain or to
9 make available to the Secretary upon his request or
10 demand the books or records required by subsection
11 (f), or by regulations promulgated thereunder, shall
12 be subject to a civil penalty of \$50,000 or twice the
13 amount of money which would have been docu-
14 mented had the books and records been properly
15 maintained, whichever is greater.

16 “(B) Any person who fails to take the actions
17 required of financial institutions pursuant to sub-
18 section (g)(1), or by regulations promulgated there-
19 under, shall be subject to a civil penalty of \$50,000
20 per violation, or twice the amount of money of which
21 the financial institution was required to retain pos-
22 session or control, whichever is greater.

23 “(C) Except as otherwise specified in this sec-
24 tion, any person who violates any license, order, di-
25 rection, or regulation issued pursuant to this section

1 shall be subject to a civil penalty of \$50,000 per vio-
2 lation, or twice the value of the violation, whichever
3 is greater.

4 “(3) Any person who intentionally fails to main-
5 tain or to make available to the Secretary the books
6 or records required by subsection (i), or by regula-
7 tions promulgated thereunder, shall be fined under
8 this title, or imprisoned for up to 5 years, or both.

9 “(4) Any organization convicted of an offense
10 under paragraph (1) or (3) of subsection (i) shall,
11 upon conviction, forfeit any charitable designation it
12 might have received under the Internal Revenue
13 Code.

14 “(k) INJUNCTION.—

15 “(1) Whenever it appears to the Secretary or
16 the Attorney General that any person is engaged in,
17 or is about to engage in, any act which constitutes,
18 or would constitute, a violation of this section, the
19 Attorney General may initiate civil action in a dis-
20 trict court of the United States to enjoin such viola-
21 tion.

22 “(2) A proceeding under this subsection is gov-
23 erned by the Federal Rules of Civil Procedure, ex-
24 cept that, if an indictment has been returned against

1 the respondent, discovery is governed by the Federal
2 Rules of Criminal Procedure.

3 “(l) EXTRATERRITORIAL JURISDICTION.—There is
4 extraterritorial Federal jurisdiction over an offense under
5 this section.

6 “(m) CLASSIFIED INFORMATION IN CIVIL PROCEED-
7 INGS BROUGHT BY THE UNITED STATES.—

8 “(1) DISCOVERY OF CLASSIFIED INFORMATION
9 BY DEFENDANTS.—A court, upon a sufficient show-
10 ing, may authorize the States to delete specified
11 items of classified information from documents to be
12 introduced into evidence or made available to the de-
13 fendant through discovery under the Federal Rules
14 of Civil Procedure, to substitute a summary of the
15 information for such classified documents, or to sub-
16 stitute a statement admitting relevant facts that the
17 classified information would tend to prove. The court
18 shall permit the United States to make a request for
19 such authorization in the form of a written state-
20 ment to be inspected by the court alone. If the court
21 enters an order granting relief following such an ex
22 parte showing, the entire text of the statement of
23 the United States shall be sealed and preserved in
24 the records of the court to be made available to the
25 appellate court in the event of an appeal. If the

1 court enters an order denying relief to the United
2 States under this paragraph, the United States may
3 take an immediate, interlocutory appeal in accord-
4 ance with the provisions of paragraph (3). For pur-
5 poses of such an appeal, the entire text of the under-
6 lying written statement of the United States, to-
7 gether with any transcripts of arguments made ex
8 parte to the court in connection therewith, shall be
9 maintained under seal and delivered to the appellate
10 court.

11 “(2) INTRODUCTION OF CLASSIFIED INFORMA-
12 TION; PRECAUTIONS BY COURT.—

13 “(A) EXHIBITS.—The United States, to
14 prevent unnecessary or inadvertent disclosure of
15 classified information in a civil trial or other
16 proceeding brought by the United States under
17 this section, may petition the court ex parte to
18 admit, in lieu of classified writings, recordings
19 or photographs, one or more of the following:

20 “(i) copies of those items from which
21 classified information has been deleted;

22 “(ii) stipulations admitting relevant
23 facts that specific classified information
24 would tend to prove; or

1 “(iii) a summary of the specific classi-
2 fied information.

3 The court shall grant such a motion of the
4 United States if the court finds that the re-
5 dacted item, stipulation, or summary will pro-
6 vide the defendant with substantially the same
7 ability to make his defense as would disclosure
8 of the specific classified information.

9 “(B) TAKING OF TRIAL TESTIMONY.—Dur-
10 ing the examination of a witness in any civil
11 proceeding brought by the United States under
12 this section, the United States may object to
13 any question or line of inquiry that may require
14 the witness to disclose classified information not
15 previously found to be admissible. Following
16 such an objection, the court shall take suitable
17 action to determine whether the response is ad-
18 missible and, in doing so, shall take precautions
19 to guard against the compromise of any classi-
20 fied information. Such action may include per-
21 mitting the United States to provide the court,
22 ex parte, with a proffer of the witness’s re-
23 sponse to the question or line of inquiry, and
24 requiring the defendant to provide the court

1 with a proffer of the nature of the information
2 the defendant seeks to elicit.

3 “(C) APPEAL.—If the court enters an
4 order denying relief to the United States under
5 this subsection, the United States may take an
6 immediate interlocutory appeal in accordance
7 with paragraph (3).

8 “(3) INTERLOCUTORY APPEAL.—

9 “(A) An interlocutory appeal by the United
10 States shall lie to a court of appeals from a de-
11 cision or order of a district court—

12 “(i) authorizing the disclosure of clas-
13 sified information;

14 “(ii) imposing sanctions for
15 nondisclosure of classified information; or

16 “(iii) refusing a protective order
17 sought by the United States to prevent the
18 disclosure of classified information.

19 “(B) An appeal taken pursuant to this
20 paragraph either before or during trial shall be
21 expedited by the court of appeals. Prior to trial,
22 an appeal shall be taken not later than 10 days
23 after the decision or order appealed from, and
24 the trial shall not commence until the appeal is
25 resolved. If an appeal is taken during trial, the

1 trial court shall adjourn the trial until the ap-
2 peal is resolved. The court of appeals—

3 “(i) shall hear argument on such ap-
4 peal not later than 4 days after the ad-
5 journment of the trial;

6 “(ii) may dispense with written briefs
7 other than the supporting materials pre-
8 viously submitted to the trial court;

9 “(iii) shall render its decision not
10 later than 4 days after argument on ap-
11 peal; and

12 “(iv) may dispense with the issuance
13 of a written opinion in rendering its deci-
14 sion.

15 “(C) An interlocutory appeal and decision
16 under this paragraph shall not affect the right
17 of the defendant, in a subsequent appeal from
18 a final judgment, to claim as error, reversal by
19 the trial court on remand of a ruling appealed
20 from during trial.

21 “(4) CONSTRUCTION.—Nothing in this sub-
22 section shall prevent the United States from seeking
23 protective orders or asserting privileges ordinarily
24 available to the United States to protect against the

1 disclosure of classified information, including the in-
2 vocation of the military and State secrets privilege.

3 “(n) DEFINITIONS.—As used in this section—

4 “(1) the term ‘classified information’ means
5 any information or material that has been deter-
6 mined by the United States Government pursuant to
7 an Executive order, statute, or regulation, to require
8 protection against unauthorized disclosure for rea-
9 sons of national security and any restricted data, as
10 defined in paragraph r. of section 11 of the Atomic
11 Energy Act of 1954 (42 U.S.C. 2014(y));

12 “(2) the term ‘financial institution’ has the
13 meaning prescribed in section 5312(a)(2) of title 31,
14 United States Code, including any regulations pro-
15 mulgated thereunder;

16 “(3) the term ‘funds’ includes coin or currency
17 of the United States or any other country, traveler’s
18 checks, personal checks, bank checks, money orders,
19 stocks, bonds, debentures, drafts, letters of credit,
20 any other negotiable instrument, and any electronic
21 representation of any of the foregoing;

22 “(4) the term ‘national security’ means the na-
23 tional defense and foreign relations of the United
24 States;

6 “(7) the term ‘United States’, when used in a
7 geographical sense, includes all commonwealths, ter-
8 ritories, and possessions of the United States.”.

“2339B. Fundraising for terrorist organizations”.

19 **SEC. 402. CORRECTION TO MATERIAL SUPPORT PROVI-**
20 **SION.**

•S 735 IS

1 “(a) OFFENSE.—Chapter 113A of title 18, United
2 States Code, is amended by adding the following new sec-
3 tion:

4 **“§ 2339A. Providing material support to terrorists**

5 “(a) DEFINITION.—In this section, ‘material support
6 or resources’ means currency or other financial securities,
7 financial services, lodging, training, safehouses, false doc-
8 umentation or identification, communications equipment,
9 facilities, weapons, lethal substances, explosives, person-
10 nel, transportation, and other physical assets, but does not
11 include humanitarian assistance to persons not directly in-
12 volved in such violations.

13 “(b) OFFENSE.—A person who, within the United
14 States, provides material support or resources or conceals
15 or disguises the nature, location, source, or ownership of
16 material support or resources, knowing or intending that
17 they are to be used in preparation for, in carrying out,
18 a violation of section 32, 37, 351, 844(f) or (i), 956, 1114,
19 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or
20 2332a of this title or section 46502 of title 49, or in prepa-
21 ration for or carrying out the concealment or an escape
22 from the commission of any such violation, shall be fined
23 under this title, imprisoned not more than ten years, or
24 both.”.

1 **TITLE V—ASSISTANCE TO FED-**
2 **ERAL LAW ENFORCEMENT**
3 **AGENCIES**

4 **Subtitle A—Antiterrorism**
5 **Assistance**

6 **SEC. 501. STUDY AND REPORT ON DOMESTIC TERRORISM.**

7 (a) STUDY.—The Director of the Federal Bureau of
8 Investigation shall study all applicable guidelines and laws
9 regulating domestic surveillance.

10 (b) REPORT.—Not later than 30 days after the date
11 of enactment of this Act, the Director of the Federal Bu-
12 reau of Investigation shall report to Congress the findings
13 of the review of laws and guidelines conducted pursuant
14 to subsection (a), and shall provide suggestions, to the ex-
15 tent that any changes in current policy are needed, for
16 enhancing domestic surveillance in support of investiga-
17 tions.

18 **SEC. 502. FEDERAL BUREAU OF INVESTIGATION COUNTER-**
19 **INTELLIGENCE.**

20 (a) IN GENERAL.—The Fair Credit Reporting Act
21 (15 U.S.C. 1681 et seq.) is amended by adding after sec-
22 tion 623 the following new section:

1 **“SEC. 624. DISCLOSURES TO FEDERAL BUREAU OF INVES-**
2 **TIGATION FOR COUNTERINTELLIGENCE PUR-**
3 **POSES.**

4 “(a) IDENTITY OF FINANCIAL INSTITUTIONS.—Not-
5 withstanding section 604 or any other provision of this
6 title, a consumer reporting agency shall furnish to the
7 Federal Bureau of Investigation the names and addresses
8 of all financial institutions (as that term is defined in sec-
9 tion 1101 of the Right to Financial Privacy Act of 1978)
10 at which a consumer maintains or has maintained an ac-
11 count, to the extent that information is in the files of the
12 agency, when presented with a written request for that
13 information, signed by the Director of the Federal Bureau
14 of Investigation, or the Director’s designee, which certifies
15 compliance with this section. The Director or the Direc-
16 tor’s designee may make such a certification only if the
17 Director or the Director’s designee has determined in writ-
18 ing that—

19 “(1) such information is necessary for the con-
20 duct of an authorized foreign counterintelligence in-
21 vestigation; and

22 “(2) there are specific and articulable facts giv-
23 ing reason to believe that the consumer—

24 “(A) is a foreign power (as defined in sec-
25 tion 101 of the Foreign Intelligence Surveil-
26 lance Act of 1978) or a person who is not a

1 United States person (as defined in such sec-
2 tion 101) and is an official of a foreign power;
3 or

4 “(B) is an agent of a foreign power and is
5 engaging or has engaged in international terror-
6 ism (as that term is defined in section 101(c)
7 of the Foreign Intelligence Surveillance Act of
8 1978) or clandestine intelligence activities that
9 involve or may involve a violation of criminal
10 statutes of the United States.

11 “(b) IDENTIFYING INFORMATION.—Notwithstanding
12 section 604 or any other provision of this title, a consumer
13 reporting agency shall furnish identifying information re-
14 specting a consumer, limited to name, address, former ad-
15 dresses, places of employment, or former places of employ-
16 ment, to the Federal Bureau of Investigation when pre-
17 sented with a written request, signed by the Director or
18 the Director’s designee, which certifies compliance with
19 this subsection. The Director or the Director’s designee
20 may make such a certification only if the Director or the
21 Director’s designee has determined in writing that—

22 “(1) such information is necessary to the con-
23 duct of an authorized counterintelligence investiga-
24 tion; and

1 “(2) there is information giving reason to be-
2 lieve that the consumer has been, or is about to be,
3 in contact with a foreign power or an agent of a for-
4 eign power (as defined in section 101 of the Foreign
5 Intelligence Surveillance Act of 1978).

6 “(c) COURT ORDER FOR DISCLOSURE OF CONSUMER
7 REPORTS.—Notwithstanding section 604 or any other
8 provision of this title, if requested in writing by the Direc-
9 tor of the Federal Bureau of Investigation, or a designee
10 of the Director, a court may issue an order ex parte direct-
11 ing a consumer reporting agency to furnish a consumer
12 report to the Federal Bureau of Investigation, upon a
13 showing in camera that—

14 “(1) the consumer report is necessary for the
15 conduct of an authorized foreign counterintelligence
16 investigation; and

17 “(2) there are specific and articulable facts giv-
18 ing reason to believe that the consumer whose
19 consumer report is sought—

20 “(A) is an agent of a foreign power; and

21 “(B) is engaging or has engaged in inter-
22 national terrorism (as that term is defined in
23 section 101(c) of the Foreign Intelligence Sur-
24 veillance Act of 1978) or clandestine intel-
25 ligence activities that involve or may involve a

1 violation of criminal statutes of the United
2 States.

3 The terms of an order issued under this subsection shall
4 not disclose that the order is issued for purposes of a
5 counterintelligence investigation.

6 “(d) CONFIDENTIALITY.—

7 “(1) No consumer reporting agency or officer,
8 employee, or agent of a consumer reporting agency
9 shall disclose to any person, other than officers, em-
10 ployees, or agents of a consumer reporting agency
11 necessary to fulfill the requirement to disclose infor-
12 mation to the Federal Bureau of Investigation under
13 this section, that the Federal Bureau of Investiga-
14 tion has sought or obtained the identity of financial
15 institutions or a consumer report respecting any
16 consumer under subsection (a), (b), or (c).

17 “(2) No consumer reporting agency or officer,
18 employee, or agent of a consumer reporting agency
19 shall include in any consumer report any informa-
20 tion that would indicate that the Federal Bureau of
21 Investigation has sought or obtained such informa-
22 tion or a consumer report.

23 “(e) PAYMENT OF FEES.—The Federal Bureau of
24 Investigation shall, subject to the availability of appropria-
25 tions, pay to the consumer reporting agency assembling

1 or providing reports or information in accordance with
2 procedures established under this section, a fee for reim-
3 bursement for such costs as are reasonably necessary and
4 which have been directly incurred in searching, reproduc-
5 ing, or transporting books, papers, records, or other data
6 required or requested to be produced under this section.

7 “(f) LIMIT ON DISSEMINATION.—The Federal Bu-
8 reau of Investigation may not disseminate information ob-
9 tained pursuant to this section outside of the Federal Bu-
10 reau of Investigation, except—

11 “(1) to the Department of Justice, as may be
12 necessary for the approval or conduct of a foreign
13 counterintelligence investigation; and

14 “(2) where the information concerns a person
15 subject to the Uniform Code of Military Justice, to
16 appropriate investigative authorities within the mili-
17 tary department concerned as may be necessary for
18 the conduct of a joint foreign counterintelligence in-
19 vestigation.

20 “(g) RULES OF CONSTRUCTION.—Nothing in this
21 section shall be construed to prohibit information from
22 being furnished by the Federal Bureau of Investigation
23 pursuant to a subpoena or court order, or in connection
24 with a judicial or administrative proceeding to enforce the
25 provisions of this Act. Nothing in this section shall be con-

1 strued to authorize or permit the withholding or informa-
2 tion from the Congress.

3 “(h) REPORTS TO CONGRESS.—On a semiannual
4 basis, the Attorney General of the United States shall fully
5 inform the Permanent Select Committee on Intelligence
6 and the Committee on Banking and Financial Services of
7 the House of Representatives, and the Select Committee
8 on Intelligence and the Committee on Banking, Housing,
9 and Urban Affairs of the Senate concerning all requests
10 made pursuant to subsections (a), (b), and (c).

11 “(i) DAMAGES.—Any agency or department of the
12 United States obtaining or disclosing any consumer re-
13 ports, records, or information contained therein in viola-
14 tion of this section is liable to the consumer to whom such
15 consumer reports, records, or information relate in an
16 amount equal to the sum of—

17 “(1) \$100, without regard to the volume of
18 consumer reports, records, or information involved;

19 “(2) any actual damages sustained by the
20 consumer as a result of the disclosure;

21 “(3) if the violation is found to have been will-
22 ful or intentional, such punitive damages as a court
23 may allow; and

24 “(4) in the case of any successful action to en-
25 force liability under this subsection, the costs of the

1 action, together with reasonable attorney fees, as de-
2 termined by the court.

3 “(j) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a
4 court determines that any agency or department of the
5 United States has violated any provision of this section
6 and the court finds that the circumstances surrounding
7 the violation raise questions of whether or not an officer
8 or employee of the agency or department acted willfully
9 or intentionally with respect to the violation, the agency
10 or department shall promptly initiate a proceeding to de-
11 termine whether or not disciplinary action is warranted
12 against the officer or employee who was responsible for
13 the violation.

14 “(k) GOOD-FAITH EXCEPTION.—Notwithstanding
15 any other provision of this title, any consumer reporting
16 agency or agent or employee thereof making disclosure of
17 consumer reports or identifying information pursuant to
18 this subsection in good-faith reliance upon a certification
19 of the Federal Bureau of Investigation pursuant to provi-
20 sions of this section shall not be liable to any person for
21 such disclosure under this title, the constitution of any
22 State, or any law or regulation of any State or any politi-
23 cal subdivision of any State.

24 “(l) LIMITATION OF REMEDIES.—Notwithstanding
25 any other provision of this title, the remedies and sanc-

1 tions set forth in this section shall be the only judicial
2 remedies and sanctions for violation of this section.

3 “(m) INJUNCTIVE RELIEF.—In addition to any other
4 remedy contained in this section, injunctive relief shall be
5 available to require compliance with the procedures of this
6 section. In the event of any successful action under this
7 subsection, costs together with reasonable attorney fees,
8 as determined by the court, may be recovered.”.

9 (b) CLERICAL AMENDMENT.—The table of sections
10 at the beginning of the Fair Credit Reporting Act (15
11 U.S.C. 1681a et seq.) is amended by adding after the item
12 relating to section 623 the following new item:

“624. Disclosures to the Federal Bureau of Investigation for counterintelligence purposes.”.

13 **SEC. 503. ADMINISTRATIVE SUBPOENAS FOR COMMON CAR-**
14 **RIERS AND INNKEEPERS.**

15 (a) IN GENERAL.—Title 28, United States Code, is
16 amended by inserting after section 537 the following new
17 section:

18 **“§ 538. Administrative summons authority for com-**
19 **mon carriers and innkeepers**

20 “(a) ISSUANCE.—

21 “(1) AUTHORITY.—Pursuant to regulations
22 promulgated by the Attorney General in consultation
23 with the Director of the Federal Bureau of Inves-
24 tigation, the Director, and supervisory level special

1 agents of the Federal Bureau of Investigation des-
2 ignated by the Director may issue in writing and
3 cause to be served upon a common carrier or inn-
4 keeper, a summons requiring the common carrier or
5 innkeeper to produce the materials at the place des-
6 ignated in the summons, upon a determination that
7 the common carrier or innkeeper may possess, or
8 have care, custody, or control of any books, records,
9 papers, documents, or other tangible things or ob-
10 jects, in any form, that may be relevant to a foreign
11 counterintelligence activity.

12 “(2) CONTENTS.—The summons shall—

13 “(A) describe the materials to be produced
14 with reasonably sufficient clarity and particu-
15 larity to enable the materials to be identified;
16 and

17 “(B) prescribe a return date that provides
18 a reasonable period of time within which the
19 material can be assembled and made available.

20 “(b) SERVICE.—A summons issued under this section
21 may be served by any person designated in the summons
22 to serve it. Service upon a natural person may be made
23 by personal delivery of the summons to the person. Service
24 may be made upon a domestic or foreign corporation or
25 upon a partnership or other unincorporated association by

1 delivering the summons personally or by certified or reg-
2 istered mail to an officer, managing or general agent, or
3 any other agent authorized by appointment, or by law of
4 any State or jurisdiction, to receive service of process. The
5 affidavit of the person serving the summons shall be proof
6 of service.

7 “(c) PLACE OF SERVICE.—A summons issued under
8 this section may be served at any place within the United
9 States or any place subject to the laws or the jurisdiction
10 of the United States.

11 “(d) ENFORCEMENT.—

12 “(1) REFUSAL TO OBEY.—In the case of contu-
13 macy, neglect, or refusal to obey a summons issued
14 to and served upon any person pursuant to this sec-
15 tion, the Attorney General or a designee of the At-
16 torney General may invoke the aid of any court of
17 the United States within which the investigation is
18 pending, the summons was served, or the summoned
19 person carries on business or may be found, to com-
20 pel compliance with the summons. All process in any
21 such case may be served in any judicial district in
22 which such person may be found.

23 “(2) PETITION.—(A) Not later than 10 days
24 after the earlier of the service of a summons upon
25 a common carrier or innkeeper, or at any time be-

1 fore the return date specified in the summons, the
2 common carrier or innkeeper may file in the district
3 court of the United States for the judicial district in
4 which the investigation is pending, a petition for an
5 order modifying or setting aside the summons issued
6 pursuant to subsection (a), or a prohibition of disclo-
7 sure order obtained or a certification issued by the
8 Government pursuant to subsection (f).

9 “(B) The petition shall specify each ground
10 upon which the petitioner relies in seeking relief.

11 “(C) An order or certification of nondisclosure
12 pursuant to subsection (f) shall not be grounds for
13 a petition to modify or set aside the summons.

14 “(D) The time allowed for initiation of formal
15 criminal proceedings under any applicable statute of
16 limitations shall be tolled while the petition is pend-
17 ing in court or on appeal.

18 “(3) JURISDICTION OF DISTRICT COURTS.—The
19 district courts of the United States shall have juris-
20 diction to hear and determine the matters arising
21 under this section, and to enter such orders as may
22 be required to effectuate the provisions of this sec-
23 tion. Any failure to obey the order entered by the
24 district judge may be punished as a contempt there-
25 of. Any petition filed or order entered relating to a

1 summons issued and served with an order of
2 nondisclosure pursuant to subsection (f) shall be
3 under seal. All proceedings relating to or arising
4 from a summons or certification of nondisclosure is-
5 sued in connection with the collection of positive for-
6 eign intelligence or counterintelligence shall be under
7 seal and in compliance with applicable statutes, reg-
8 ulations, and orders relating to handling of classified
9 information.

10 “(4) PRODUCTION OF MATERIALS.—Any person
11 served with a summons issued pursuant to this sec-
12 tion shall proceed to assemble the materials re-
13 quested and shall be prepared to produce them on
14 the date and at the place specified in the summons.

15 “(e) LIMITATIONS.—

16 “(1) CONSTRUCTION WITH OTHER LAWS.—Ex-
17 cept as expressly provided in this section, nothing in
18 this section shall supersede the provisions of any
19 other law of the United States that regulates access
20 to materials by Federal agencies.

21 “(2) SUBPOENA DUCES TECUM.—No summons
22 shall require the production of materials, if such ma-
23 terials would be protected from production under the
24 standards applicable to a subpoena duces tecum is-
25 sued by a court of the United States in aid of the

1 grand jury investigation for the purpose of Federal
2 indictment and prosecution. Nothing in this sub-
3 section shall be construed to bar the use of the sum-
4 mons authorized by this section in connection with
5 gathering data for foreign intelligence purposes.

6 “(3) USE OF MATERIALS IN INVESTIGATION OR
7 OTHER PROCEEDING.—Nothing in this section or in
8 any other statute or rule shall be construed to pro-
9 hibit the use of materials or the information con-
10 tained therein obtained pursuant to this section in
11 any investigation or proceeding.

12 “(f) PROHIBITION OF DISCLOSURE.—

13 “(1) IN GENERAL.—(A) Notwithstanding any
14 other provision of Federal, State, or local law, a
15 United States District Court Judge for the district
16 in which the investigation is pending may, upon ap-
17 plication of the United States without notice to a
18 summons recipient, issue an ex parte order, that no
19 person served with a summons pursuant to this sec-
20 tion, or their representative, shall disclose to any
21 other person the existence of such summons, for a
22 period of 180 days.

23 “(B) Such order may be issued on a showing
24 that the materials being sought may be relevant to
25 a legitimate law enforcement inquiry involving a risk

1 to national security and that there is reason to be-
2 lieve that such disclosure may result in—

3 “(i) endangering the life or physical safety
4 of any person;

5 “(ii) flight from prosecution;

6 “(iii) destruction of or tampering with evi-
7 dence;

8 “(iv) intimidation of potential witnesses; or

9 “(v) defeating any remedy or penalty pro-
10 vided for violation of the laws of the United
11 States.

12 “(2) RENEWAL.—The period of nondisclosure
13 may be renewed for additional 180-day periods pur-
14 suant to this subsection.

15 “(3) FOREIGN INTELLIGENCE OR COUNTER-
16 INTELLIGENCE.—Notwithstanding any other provi-
17 sion of Federal, State, or local law, no person served
18 with a summons issued pursuant to this section, or
19 their representative, shall disclose the existence of
20 such summons in any case in which the Director of
21 the Federal Bureau of Investigation or a special
22 agent of the rank of Assistant Special Agent-In-
23 Charge or above designated by the Director certifies
24 that the summons was issued for the purpose of col-

1 lecting positive foreign intelligence or counterintel-
2 ligence.

3 “(4) PENALTY FOR DISCLOSURE.—Whoever
4 knowingly and willfully discloses or attempts to dis-
5 close the existence of a summons in violation of this
6 subsection shall be subject to imprisonment up to 5
7 years or fined as provided under section 3571 of
8 title 18, or both.

9 “(5) DISCLOSURE TO ATTORNEY.—Nothing in
10 this subsection shall prohibit any person from dis-
11 closing the service of a summons pursuant to this
12 section to any attorney for purposes of filing a peti-
13 tion pursuant to subsection (d)(2).

14 “(6) THIRD-PARTY PRODUCTION.—Any third
15 party recordkeeper, agent, or employee thereof, who,
16 in good faith reliance on an order or certification of
17 nondisclosure pursuant to this subsection, produces
18 any materials and does not disclose such production
19 to the subject of the records shall not be liable to
20 any customer or other person for such
21 nondisclosure.”.

22 (b) TECHNICAL AMENDMENT.—The table of sections
23 for chapter 33 of title 28, United States Code, is amended
24 by inserting at the end thereof the following new item:

“Section 538. Administrative summons authority for common carriers and
inkeepers.”

1 **SEC. 504. INCREASE IN MAXIMUM REWARDS FOR INFORMA-**
2 **TION CONCERNING INTERNATIONAL TER-**
3 **RORISM.**

4 (a) **TERRORISM ABROAD.**—Section 36 of the State
5 Department Basic Authorities Act of 1956 (22 U.S.C.
6 2708) is amended—

7 (1) in subsection (c), by striking “\$2,000,000”
8 and inserting “\$10,000,000”; and

9 (2) in subsection (g), by striking “\$5,000,000”
10 and inserting “\$10,000,000”.

11 (b) **DOMESTIC TERRORISM.**—Title 18, United States
12 Code, is amended—

13 (1) in section 3072, by striking “\$500,000”
14 and inserting “\$10,000,000”; and

15 (2) in section 3075, by striking “\$5,000,000”
16 and inserting “\$10,000,000”.

17 **SEC. 505. FEDERAL BUREAU OF INVESTIGATION REPORT.**

18 Not later than January 31, 1997, the Director of the
19 Federal Bureau of Investigation shall report to Congress
20 on the effectiveness of section 2339A of title 18, United
21 States Code (as added by section 120005(a) of the Violent
22 Crime Control and Law Enforcement Act of 1994). The
23 report shall include any recommendations of the Director
24 for changes in existing law that are needed to improve the
25 effectiveness of such section.

1 **Subtitle B—Intelligence**

2 **SEC. 511. STUDY AND REPORT ON ELECTRONIC SURVEIL-**
3 **LANCE.**

4 (a) STUDY.—The Attorney General and the Director
5 of the Federal Bureau of Investigation shall study all ap-
6 plicable laws and guidelines relating to electronic surveil-
7 lance and the use of pen registers and other trap and trace
8 devices.

9 (b) REPORT.—Not later than 90 days after the date
10 of enactment of this Act, the Attorney General shall report
11 to the Congress on the findings of the study conducted
12 pursuant to subsection (a), and shall provide recommenda-
13 tions for the use of electronic devices in conducting sur-
14 veillance of terrorist or other criminal organizations, and
15 for any modifications in the law necessary to enable the
16 Federal Government to fulfill its law enforcement respon-
17 sibilities within appropriate constitutional parameters.

18 **SEC. 512. WIRETAP AUTHORITY FOR TERRORISM AND RE-**
19 **LATED OFFENSES.**

20 Section 2516(1) of title 18, United States Code, is
21 amended—

22 (1) in paragraph (c), by inserting after “section
23 175 (relating to biological weapons),” the following:
24 “or a felony violation under section 1028 (relating to
25 production of false identification documentation),

1 sections 1541, 1542, 1543, 1544, and 1546 (relating
2 to passport and visa offenses),”;

3 (2) by redesignating paragraphs (m), (n), and
4 (o) as paragraphs (n), (o), and (p), respectively; and

5 (3) by inserting after paragraph (l) the follow-
6 ing new paragraph:

7 “(m) A violation of (i) section 274 of the Immigration
8 and Nationality Act (8 U.S.C. 1324) (relating to alien
9 smuggling), (ii) section 277 of the Immigration and Na-
10 tionality Act (8 U.S.C. 1327) (relating to the smuggling
11 of aliens convicted of aggravated felonies or of aliens sub-
12 ject to exclusion on grounds of national security), or (iii)
13 section 278 of the Immigration and Nationality Act (8
14 U.S.C. 1328) (relating to smuggling of aliens for the pur-
15 pose of prostitution);”.

16 **SEC. 513. PARTICIPATION OF FOREIGN AND STATE GOV-**
17 **ERNMENT PERSONNEL IN INTERCEPTIONS**
18 **OF COMMUNICATIONS.**

19 Section 2518(5) of title 18, United States Code, is
20 amended by inserting “(including personnel of a foreign
21 government or of a State or subdivision of a State)” after
22 “Government personnel”.

1 **SEC. 514. DISCLOSURE OF INTERCEPTED COMMUNICA-**
2 **TIONS TO FOREIGN LAW ENFORCEMENT**
3 **AGENCIES.**

4 Section 2510(7) of title 18, United States Code, is
5 amended by inserting before the semicolon the following:
6 “and, for purposes of subsections (1) and (2) of section
7 2517, any person authorized to perform investigative, law
8 enforcement, or prosecutorial functions by a foreign gov-
9 ernment”.

10 **SEC. 515. AUTHORIZATION FOR INTERCEPTIONS OF COM-**
11 **MUNICATIONS IN CERTAIN TERRORISM RE-**
12 **LATED OFFENSES.**

13 (a) Section 2516(1) of title 18, United States Code,
14 is amended—

15 (1) by striking “and” at the end of paragraph

16 (o), as so redesignated by section 512(a)(2);

17 (2) by redesignating paragraph (p), as so redes-
18 igned by section 512(a)(2), as paragraph (s); and

19 (3) by inserting after paragraph (o), as so re-
20 redesignated by section 512(a)(2), the following new
21 subparagraphs:

22 “(p) Any violation of section 956 or section 960 of
23 title 18, United States Code (relating to certain actions
24 against foreign nations);

25 “(q) Any violation of section 46502 of title 49, United
26 States Code; and”.

1 (b) Section 2516(1)(c) of title 18, United States
2 Code, is amended by inserting before “or section 1992 (re-
3 lating to wrecking trains)” the following: “section 2332
4 (relating to terrorist acts abroad), section 2332a (relating
5 to weapons of mass destruction, section 2332b (relating
6 to acts of terrorism transcending national boundaries),
7 section 2339A (relating to providing material support to
8 terrorists), section 37 (relating to violence at international
9 airports),”.

10 **Subtitle C—Additional Funding for**
11 **Law Enforcement**

12 **SEC. 521. FEDERAL BUREAU OF INVESTIGATION ASSIST-**
13 **ANCE TO COMBAT TERRORISM.**

14 (a) IN GENERAL.—With funds made available pursu-
15 ant to subsection (b), the Attorney General shall—

- 16 (1) develop digital telephony technology;
17 (2) support and enhance the technical support
18 center and tactical operations;
19 (3) expand legal attaches;
20 (4) enhance Federal wireless communications
21 and antenna site lease shortfall;
22 (5) expand and improve the instructional, oper-
23 ational support, and construction of the Federal Bu-
24 reau of Investigation academy;

1 (6) expand and improve investigative and man-
2 agerial training courses for State, Indian tribal, and
3 local law enforcement agencies;

4 (7) construct a Federal Bureau of Investigation
5 laboratory and provide laboratory examination sup-
6 port; and

7 (8) create a special Federal Bureau of Inves-
8 tigation counterterrorism and counterintelligence
9 fund for costs associated with terrorism cases.

10 (b) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated for the activities of the
12 Federal Bureau of Investigation, to help meet the in-
13 creased demands for activities to combat terrorism—

14 (1) \$203,150,000 for fiscal year 1996, of
15 which—

16 (A) not more than \$52,000,000 shall be
17 available to carry out subsection (a)(1);

18 (B) not more than \$39,900,000 shall be
19 available to carry out subsection (a)(2);

20 (C) not more than \$10,750,000 shall be
21 available to carry out subsection (a)(3);

22 (D) not more than \$24,100,000 shall be
23 available to carry out subsection (a)(4);

24 (E) not more than \$34,000,000 shall be
25 available to carry out subsection (a)(5);

1 (F) not more than \$1,650,000 shall be
2 available to carry out subsection (a)(6);

3 (G) not more than \$16,200,000 shall be
4 available to carry out subsection (a)(7); and

5 (H) not more than \$2,000,000 shall be
6 available to carry out subsection (a)(8);

7 (2) \$184,500,000 for fiscal year 1997, of
8 which—

9 (A) not more than \$52,000,000 shall be
10 available to carry out subsection (a)(1);

11 (B) not more than \$31,000,000 shall be
12 available to carry out subsection (a)(2);

13 (C) not more than \$2,200,000 shall be
14 available to carry out subsection (a)(3);

15 (D) not more than \$24,100,000 shall be
16 available to carry out subsection (a)(4);

17 (E) not more than \$48,000,000 shall be
18 available to carry out subsection (a)(5);

19 (F) not more than \$1,650,000 shall be
20 available to carry out subsection (a)(6);

21 (G) not more than \$3,000,000 shall be
22 available to carry out subsection (a)(7);

23 (H) not more than \$2,000,000 shall be
24 available to carry out subsection (a)(8);

1 (3) \$284,000,000 for fiscal year 1998, of
2 which—

3 (A) not more than \$47,000,000 shall be
4 available to carry out subsection (a)(1);

5 (B) not more than \$20,000,000 shall be
6 available to carry out subsection (a)(2);

7 (C) not more than \$2,200,000 shall be
8 available to carry out subsection (a)(3);

9 (D) not more than \$24,100,000 shall be
10 available to carry out subsection (a)(4);

11 (E) not more than \$31,500,000 shall be
12 available to carry out subsection (a)(5);

13 (F) not more than \$1,650,000 shall be
14 available to carry out subsection (a)(6);

15 (G) not more than \$140,000,000 shall be
16 available to carry out subsection (a)(7);

17 (H) not more than \$2,000,000 shall be
18 available to carry out subsection (a)(8);

19 (4) \$147,500,000 for fiscal year 1999, of
20 which—

21 (A) not more than \$46,000,000 shall be
22 available to carry out subsection (a)(1);

23 (B) not more than \$20,000,000 shall be
24 available to carry out subsection (a)(2);

1 (C) not more than \$2,200,000 shall be
2 available to carry out subsection (a)(3);

3 (D) not more than \$24,100,000 shall be
4 available to carry out subsection (a)(4);

5 (E) not more than \$34,000,000 shall be
6 available to carry out subsection (a)(5);

7 (F) not more than \$1,650,000 shall be
8 available to carry out subsection (a)(6);

9 (G) not more than \$2,500,000 shall be
10 available to carry out subsection (a)(7); and

11 (H) not more than \$2,000,000 shall be
12 available to carry out subsection (a)(8); and

13 (5) \$125,850,000 for fiscal year 2000, of
14 which—

15 (A) not more than \$46,000,000 shall be
16 available to carry out subsection (a)(1);

17 (B) not more than \$12,500,000 shall be
18 available to carry out subsection (a)(2);

19 (C) not more than \$2,200,000 shall be
20 available to carry out subsection (a)(3);

21 (D) not more than \$8,100,000 shall be
22 available to carry out subsection (a)(4);

23 (E) not more than \$36,000,000 shall be
24 available to carry out subsection (a)(5);

1 (F) not more than \$1,650,000 shall be
2 available to carry out subsection (a)(6);

3 (G) not more than \$2,500,000 shall be
4 available to carry out subsection (a)(7); and

5 (H) not more than \$2,000,000 shall be
6 available to carry out subsection (a)(8).

7 (c) AVAILABILITY OF FUNDS.—

8 (1) IN GENERAL.—Funds made available pur-
9 suant to subsection (b), in any fiscal year, shall re-
10 main available until expended.

11 (2) PRIORITY OF DIGITAL TELEPHONY.—No
12 funds shall be expended to carry out paragraphs (2),
13 (3), or (4) of subsection (a) until the full amount of
14 funds appropriated is made available to carry out
15 paragraph (1) of such subsection.

16 (d) EXCESS FUNDS.—Any funds remaining after the
17 operation of subsection (a) may be expended by the Fed-
18 eral Bureau of Investigation for—

19 (1) telephone carrier compliance, in accordance
20 with the Communication Assistance for Law En-
21 forcement Act of 1994; and

22 (2) the hiring of new Federal Bureau of Inves-
23 tigation agents.

1 **SEC. 522. AUTHORIZATION OF ADDITIONAL APPROPRIA-**
2 **TIONS FOR THE UNITED STATES CUSTOMS**
3 **SERVICE.**

4 (a) IN GENERAL.—There are authorized to be appro-
5 priated for the activities of the United States Customs
6 Service, to help meet the increased needs of the United
7 States Customs Service—

8 (1) \$20,000,000 for fiscal year 1996;

9 (2) \$30,000,000 for fiscal year 1997;

10 (3) \$40,000,000 for fiscal year 1998;

11 (4) \$50,000,000 for fiscal year 1999; and

12 (5) \$60,000,000 for fiscal year 2000.

13 (b) AVAILABILITY OF FUNDS.—Funds made avail-
14 able pursuant to subsection (a), in any fiscal year, shall
15 remain available until expended.

16 **SEC. 523. AUTHORIZATION OF ADDITIONAL APPROPRIA-**
17 **TIONS FOR THE IMMIGRATION AND NATU-**
18 **RALIZATION SERVICE.**

19 (a) IN GENERAL.—There are authorized to be appro-
20 priated for the activities of the Immigration and Natu-
21 ralization Service, to help meet the increased needs of the
22 Immigration and Naturalization Service—

23 (1) \$15,000,000 for fiscal year 1996;

24 (2) \$15,000,000 for fiscal year 1997;

25 (3) \$15,000,000 for fiscal year 1998;

26 (4) \$15,000,000 for fiscal year 1999; and

1 (5) \$15,000,000 for fiscal year 2000.

2 (b) AVAILABILITY OF FUNDS.—Funds made avail-
3 able pursuant to subsection (a), in any fiscal year, shall
4 remain available until expended.

5 **SEC. 524. DRUG ENFORCEMENT ADMINISTRATION.**

6 (a) ACTIVITIES OF DRUG ENFORCEMENT ADMINIS-
7 TRATION.—With funds made available pursuant to sub-
8 section (b), the Attorney General shall—

9 (1) fund permanent change of station transfers
10 for special agent personnel;

11 (2) establish and maintain an adequate motor
12 vehicle base; and

13 (3) purchase aircraft and replacement parts.

14 (b) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Drug Enforce-
16 ment Administration, to help meet the increased needs of
17 the Drug Enforcement Administration—

18 (1) \$22,000,000 for fiscal year 1996, of
19 which—

20 (A) not more than \$10,000,000 shall be
21 available to carry out subsection (a)(1);

22 (B) not more than \$5,000,000 shall be
23 available to carry out subsection (a)(2); and

24 (C) not more than \$5,000,000 shall be
25 available to carry out subsection (a)(3);

1 (2) \$35,000,000 for fiscal year 1997, of
2 which—

3 (A) not more than \$20,000,000 shall be
4 available to carry out subsection (a)(1);

5 (B) not more than \$5,000,000 shall be
6 available to carry out subsection (a)(2); and

7 (C) not more than \$5,000,000 shall be
8 available to carry out subsection (a)(3);

9 (3) \$50,000,000 for fiscal year 1998, of
10 which—

11 (A) not more than \$20,000,000 shall be
12 available to carry out subsection (a)(1);

13 (B) not more than \$10,000,000 shall be
14 available to carry out subsection (a)(2); and

15 (C) not more than \$10,000,000 shall be
16 available to carry out subsection (a)(3);

17 (4) \$65,000,000 for fiscal year 1999, of
18 which—

19 (A) not more than \$20,000,000 shall be
20 available to carry out subsection (a)(1);

21 (B) not more than \$10,000,000 shall be
22 available to carry out subsection (a)(2); and

23 (C) not more than \$10,000,000 shall be
24 available to carry out subsection (a)(3); and

1 (5) \$78,000,000 for fiscal year 2000, of
2 which—

3 (A) not more than \$20,000,000 shall be
4 available to carry out subsection (a)(1);

5 (B) not more than \$10,000,000 shall be
6 available to carry out subsection (a)(2); and

7 (C) not more than \$10,000,000 shall be
8 available to carry out subsection (a)(3).

9 (c) AVAILABILITY OF FUNDS.—Funds made available
10 pursuant to this section, in any fiscal year, shall remain
11 available until expended.

12 (d) EXCESS FUNDS.—Any funds remaining after the
13 application of subsection (b) may be expended by the Drug
14 Enforcement Administration—

15 (1) to hire new Drug Enforcement Administra-
16 tion agents;

17 (2) for linguist services; and

18 (3) to acquire technical investigative equipment.

19 **SEC. 525. DEPARTMENT OF JUSTICE.**

20 (a) IN GENERAL.—Subject to the availability of ap-
21 propriations, the Attorney General shall hire additional
22 Assistant United States Attorneys.

23 (b) AUTHORIZATION OF ADDITIONAL APPROPRIA-
24 TIONS.—There are authorized to be appropriated for the
25 activities of the Department of Justice, to hire additional

1 Assistant United States Attorneys to meet the needs re-
2 sulting from this Act \$20,000,000 for each of the fiscal
3 years 1996, 1997, 1998, 1999, and 2000.

4 **SEC. 526. FUNDING SOURCE.**

5 Notwithstanding any other provision of law, funding
6 for authorizations provided in this subtitle may be paid
7 for out of the Crime Control Trust Fund.

8 **TITLE VI—TERRORIST**
9 **INTERDICTION**

10 **SEC. 601. TERRORIST INTERDICTION.**

11 (a) AUTOMATED VISA LOOKOUT SYSTEM.—Not later
12 than 6 months after the date of the enactment of this sec-
13 tion, the Secretary of State shall implement an upgrade
14 of all overseas visa lookout operations to computerized sys-
15 tems with automated multiple-name search capabilities.

16 (b) NATIONAL CRIME INFORMATION CENTER.—For
17 the purpose of access to the National Crime Information
18 Center and other Federal Bureau of Investigation criminal
19 records, with respect to functions involving the processing
20 of visas and passports and for other immigration-related
21 purposes, the Department of State shall be considered a
22 law enforcement agency.

23 (c) MEMBERSHIP IN A TERRORIST ORGANIZATION AS
24 A BASIS FOR EXCLUSION FROM THE UNITED STATES
25 UNDER THE IMMIGRATION AND NATIONALITY ACT.—Sec-

tion 212(a)(3)(B) of the Immigration and Nationality Act
(8 U.S.C. 1182(a)(3)(B)) is amended—

(1) by inserting “or” at the end of clause
(i)(II);

(2) by inserting immediately after clause (i)(II)
the following:

“(III) is a member of an organization
that engages in terrorist activity or who
actively supports or advocates terrorist ac-
tivity,”; and

(3) by adding after clause (iii) the following
new clause:

“(iv) TERRORIST ORGANIZATION DE-
FINED.—As used in this Act, the term ‘terrorist
organization’ means an organization which com-
mits terrorist activity as determined by the At-
torney General, in consultation with the Sec-
retary of State.”.

(d) PROCESSING OF VISAS FOR ADMISSION INTO THE
UNITED STATES.—

(1) VISA LOOKOUT SYSTEM CHECK.—

(A) Whenever a United States consular of-
ficial issues a visa for admission to the United
States, that official shall certify, in writing, that
a check of the Automated Visa Lookout Sys-

1 tem, or any other system or list which main-
2 tains information about the excludability of
3 aliens under the Immigration and Nationality
4 Act, has been made and that there is no basis
5 under such system for the exclusion of such
6 alien.

7 (B) If a consular official issues a visa to
8 an alien for admission to the United States and
9 the alien was named on the Automated Visa
10 Lookout System as excludable from the United
11 States at the time of the consular officer's re-
12 view and issuance of such visa, a notation shall
13 be entered into the personnel file of such con-
14 sular officer and such information shall be con-
15 sidered as a serious negative factor in the offi-
16 cer's annual performance evaluation.

17 (2) ACCOUNTABILITY REVIEW BOARD.—In any
18 case where a serious loss of life or property in the
19 United States involves the issuance of a visa to an
20 alien listed on the Automated Visa Lookout System,
21 or any other system or list which maintains informa-
22 tion about the excludability of aliens under the Im-
23 migration and Nationality Act, the Secretary of
24 State shall convene an Accountability Review Board

1 under the authority of title III of the Omnibus Dip-
 2 lomatic Security and Antiterrorism Act of 1986.

3 (e) CONGRESSIONAL REPORT.—The Secretary of
 4 State shall submit to the Congress a report for each of
 5 the fiscal years 1995 and 1996 that details the number
 6 and circumstances of each visa denied as a result of the
 7 amendment made by subsection (c).

8 **TITLE VII—CRIMINAL**
 9 **PROCEDURAL IMPROVEMENTS**
 10 **Subtitle A—Habeas Corpus Reform**

11 **SEC. 701. FILING DEADLINES.**

12 Section 2244 of title 28, United States Code, is
 13 amended by adding at the end the following new sub-
 14 section:

15 “(d)(1) A 1-year period of limitation shall apply to
 16 an application for a writ of habeas corpus by a person
 17 in custody pursuant to the judgment of a State court. The
 18 limitation period shall run from the latest of—

19 “(A) the date on which the judgment became
 20 final by the conclusion of direct review or the expira-
 21 tion of the time for seeking such review;

22 “(B) the date on which the impediment to filing
 23 an application created by State action in violation of
 24 the Constitution or laws of the United States is re-

1 moved, if the applicant was prevented from filing by
2 such State action;

3 “(C) the date on which the constitutional right
4 asserted was initially recognized by the Supreme
5 Court, if the right has been newly recognized by the
6 Supreme Court and is made retroactively applicable;
7 or

8 “(D) the date on which the factual predicate of
9 the claim or claims presented could have been dis-
10 covered through the exercise of due diligence.

11 “(2) The time during which a properly filed applica-
12 tion for State post-conviction or other collateral review
13 with respect to the pertinent judgment or claim shall not
14 be counted toward any period of limitation under this sub-
15 section.”.

16 **SEC. 702. APPEAL.**

17 Section 2253 of title 28, United States Code, is
18 amended to read as follows:

19 **“§ 2253. Appeal**

20 “(a) In a habeas corpus proceeding or a proceeding
21 under section 2255 before a district judge, the final order
22 shall be subject to review, on appeal, by the court of ap-
23 peals for the circuit in which the proceeding is held.

24 “(b) There shall be no right of appeal from a final
25 order in a proceeding to test the validity of a warrant to

1 remove to another district or place for commitment or trial
 2 a person charged with a criminal offense against the
 3 United States, or to test the validity of such person's de-
 4 tention pending removal proceedings.

5 “(c)(1) Unless a circuit justice or judge issues a cer-
 6 tificate of appealability, an appeal may not be taken to
 7 the court of appeals from—

8 “(A) the final order in a habeas corpus proceed-
 9 ing in which the detention complained of arises out
 10 of process issued by a State court; or

11 “(B) the final order in a proceeding under sec-
 12 tion 2255.

13 “(2) A certificate of appealability may issue under
 14 paragraph (1) only if the applicant has made a substantial
 15 showing of the denial of a constitutional right.

16 “(3) The certificate of appealability under paragraph
 17 (1) shall indicate which specific issue or issues satisfy the
 18 showing required by paragraph (2).”.

19 **SEC. 703. AMENDMENT OF FEDERAL RULES OF APPELLATE**
 20 **PROCEDURE.**

21 Rule 22 of the Federal Rules of Appellate Procedure
 22 is amended to read as follows:

23 **“Rule 22. Habeas corpus and section 2255 pro-**
 24 **ceedings**

1 “(a) APPLICATION FOR THE ORIGINAL WRIT.—An
2 application for a writ of habeas corpus shall be made to
3 the appropriate district court. If application is made to
4 a circuit judge, the application shall be transferred to the
5 appropriate district court. If an application is made to or
6 transferred to the district court and denied, renewal of the
7 application before a circuit judge shall not be permitted.
8 The applicant may, pursuant to section 2253 of title 28,
9 United States Code, appeal to the appropriate court of ap-
10 peals from the order of the district court denying the writ.

11 “(b) CERTIFICATE OF APPEALABILITY.—In a habeas
12 corpus proceeding in which the detention complained of
13 arises out of process issued by a State court, an appeal
14 by the applicant for the writ may not proceed unless a
15 district or a circuit judge issues a certificate of
16 appealability pursuant to section 2253(c) of title 28,
17 United States Code. If an appeal is taken by the applicant,
18 the district judge who rendered the judgment shall either
19 issue a certificate of appealability or state the reasons why
20 such a certificate should not issue. The certificate or the
21 statement shall be forwarded to the court of appeals with
22 the notice of appeal and the file of the proceedings in the
23 district court. If the district judge has denied the certifi-
24 cate, the applicant for the writ may then request issuance
25 of the certificate by a circuit judge. If such a request is

1 addressed to the court of appeals, it shall be deemed ad-
 2 dressed to the judges thereof and shall be considered by
 3 a circuit judge or judges as the court deems appropriate.
 4 If no express request for a certificate is filed, the notice
 5 of appeal shall be deemed to constitute a request ad-
 6 dressed to the judges of the court of appeals. If an appeal
 7 is taken by a State or its representative, a certificate of
 8 appealability is not required.”.

9 **SEC. 704. SECTION 2254 AMENDMENTS.**

10 Section 2254 of title 28, United States Code, is
 11 amended—

12 (1) by amending subsection (b) to read as fol-
 13 lows:

14 “(b)(1) An application for a writ of habeas corpus
 15 on behalf of a person in custody pursuant to the judgment
 16 of a State court shall not be granted unless it appears
 17 that—

18 “(A) the applicant has exhausted the remedies
 19 available in the courts of the State; or

20 “(B)(i) there is an absence of available State
 21 corrective process; or

22 “(ii) circumstances exist that render such proc-
 23 ess ineffective to protect the rights of the applicant.

24 “(2) An application for a writ of habeas corpus may
 25 be denied on the merits, notwithstanding the failure of the

1 applicant to exhaust the remedies available in the courts
2 of the State.

3 “(3) A State shall not be deemed to have waived the
4 exhaustion requirement or be estopped from reliance upon
5 the requirement unless the State, through counsel, ex-
6 pressly waives the requirement.”;

7 (2) by redesignating subsections (d), (e), and
8 (f) as subsections (e), (f), and (g), respectively;

9 (3) by inserting after subsection (c) the follow-
10 ing new subsection:

11 “(d) An application for a writ of habeas corpus on
12 behalf of a person in custody pursuant to the judgment
13 of a State court shall not be granted with respect to any
14 claim that was adjudicated on the merits in State court
15 proceedings unless the adjudication of the claim—

16 “(1) resulted in a decision that was contrary to,
17 or involved an unreasonable application of, clearly
18 established Federal law, as determined by the
19 Supreme Court of the United States; or

20 “(2) resulted in a decision that was based on an
21 unreasonable determination of the facts in light of
22 the evidence presented in the State court proceed-
23 ing.”;

24 (4) by amending subsection (e), as redesignated
25 by paragraph (2), to read as follows:

1 “(e)(1) In a proceeding instituted by an application
2 for a writ of habeas corpus by a person in custody pursu-
3 ant to the judgment of a State court, a determination of
4 a factual issue made by a State court shall be presumed
5 to be correct. The applicant shall have the burden of re-
6 butting the presumption of correctness by clear and con-
7 vincing evidence.

8 “(2) If the applicant has failed to develop the factual
9 basis of a claim in State court proceedings, the court shall
10 not hold an evidentiary hearing on the claim unless the
11 applicant shows that—

12 “(A) the claim relies on—

13 “(i) a new rule of constitutional law, made
14 retroactive by the Supreme Court, that was pre-
15 viously unavailable; or

16 “(ii) a factual predicate that could not
17 have been previously discovered through the ex-
18 ercise of due diligence; and

19 “(B) the facts underlying the claim would be
20 sufficient to establish by clear and convincing evi-
21 dence that but for constitutional error, no reasonable
22 factfinder would have found the applicant guilty of
23 the underlying offense.”; and

24 (5) by adding at the end the following new sub-
25 sections:

1 “(h) Notwithstanding any other provision of law, in
2 all proceedings brought under this section, and any subse-
3 quent proceedings on review, appointment of counsel for
4 an applicant who is or becomes financially unable to afford
5 counsel shall be in the discretion of the court, except as
6 provided by a rule promulgated by the Supreme Court
7 pursuant to statutory authority. Appointment of counsel
8 under this section shall be governed by section 3006A of
9 title 18.

10 “(i) The ineffectiveness or incompetence of counsel
11 during Federal or State collateral post-conviction proceed-
12 ings shall not be a ground for relief in a proceeding arising
13 under section 2254.”.

14 **SEC. 705. SECTION 2255 AMENDMENTS.**

15 Section 2255 of title 28, United States Code, is
16 amended—

17 (1) by striking the second and fifth paragraphs;
18 and

19 (2) by adding at the end the following new
20 paragraphs:

21 “A one-year period of limitation shall apply to a mo-
22 tion under this section. The limitation period shall run
23 from the latest of—

24 “(1) the date on which the judgment of convic-
25 tion becomes final;

1 “(2) the date on which the impediment to mak-
2 ing a motion created by governmental action in vio-
3 lation of the Constitution or laws of the United
4 States is removed, if the movant was prevented from
5 making a motion by such governmental action;

6 “(3) the date on which the right asserted was
7 initially recognized by the Supreme Court, if that
8 right has been newly recognized by the Supreme
9 Court and is made retroactively applicable; or

10 “(4) the date on which the facts supporting the
11 claim or claims presented could have been discovered
12 through the exercise of due diligence.

13 “In all proceedings brought under this section, and
14 any subsequent proceedings on review, appointment of
15 counsel for a movant who is or becomes financially unable
16 to afford counsel shall be in the discretion of the court,
17 except as provided by a rule promulgated by the Supreme
18 Court pursuant to statutory authority. Appointment of
19 counsel under this section shall be governed by section
20 3006A of title 18.

21 “A second or successive motion must be certified as
22 provided in section 2244 by a panel of the appropriate
23 court of appeals to contain—

24 “(1) newly discovered evidence that, if proven
25 and viewed in light of the evidence as a whole, would

1 be sufficient to establish by clear and convincing evi-
 2 dence that no reasonable factfinder would have
 3 found the movant guilty of the offense; or

4 “(2) a new rule of constitutional law, made ret-
 5 roactive by the Supreme Court, that was previously
 6 unavailable.”.

7 **SEC. 706. LIMITS ON SECOND OR SUCCESSIVE APPLICA-**
 8 **TIONS.**

9 (a) CONFORMING AMENDMENT TO SECTION
 10 2244(a).—Section 2244(a) of title 28, United States
 11 Code, is amended by striking “and the petition” and all
 12 that follows through “by such inquiry.” and inserting “,
 13 except as provided in section 2255.”.

14 (b) LIMITS ON SECOND OR SUCCESSIVE APPLICA-
 15 TIONS.—Section 2244(b) of title 28, United States Code,
 16 is amended to read as follows:

17 “(b)(1) A claim presented in a second or successive
 18 habeas corpus application under section 2254 that was
 19 presented in a prior application shall be dismissed.

20 “(2) A claim presented in a second or successive ha-
 21 beas corpus application under section 2254 that was not
 22 presented in a prior application shall be dismissed un-
 23 less—

24 “(A) the applicant shows that the claim relies
 25 on a new rule of constitutional law, made retroactive

1 by the Supreme Court, that was previously unavail-
2 able; or

3 “(B)(i) the factual predicate for the claim could
4 not have been discovered previously through the ex-
5 ercise of due diligence; and

6 “(ii) the facts underlying the claim, if proven
7 and viewed in light of the evidence as a whole, would
8 be sufficient to establish by clear and convincing evi-
9 dence that, but for constitutional error, no reason-
10 able factfinder would have found the applicant guilty
11 of the underlying offense.

12 “(3)(A) Before a second or successive application per-
13 mitted by this section is filed in the district court, the ap-
14 plicant shall move in the appropriate court of appeals for
15 an order authorizing the district court to consider the ap-
16 plication.

17 “(B) A motion in the court of appeals for an order
18 authorizing the district court to consider a second or suc-
19 cessive application shall be determined by a three-judge
20 panel of the court of appeals.

21 “(C) The court of appeals may authorize the filing
22 of a second or successive application only if it determines
23 that the application makes a prima facie showing that the
24 application satisfies the requirements of this subsection.

1 “(D) The court of appeals shall grant or deny the
2 authorization to file a second or successive application not
3 later than 30 days after the filing of the motion.

4 “(E) The grant or denial of an authorization by a
5 court of appeals to file a second or success application
6 shall not be appealable and shall not be the subject of a
7 petition for rehearing or for a writ of certiorari.

8 “(4) A district court shall dismiss any claim pre-
9 sented in a second or successive application that the court
10 of appeals has authorized to be filed unless the applicant
11 shows that the claim satisfies the requirements of this sec-
12 tion.”.

13 **SEC. 707. DEATH PENALTY LITIGATION PROCEDURES.**

14 (a) ADDITION OF CHAPTER TO TITLE 28, UNITED
15 STATES CODE.—Title 28, United States Code, is amended
16 by inserting after chapter 153 the following new chapter:

17 **“CHAPTER 154—SPECIAL HABEAS CORPUS**
18 **PROCEDURES IN CAPITAL CASES**

“Sec.

“2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.

“2262. Mandatory stay of execution; duration; limits on stays of execution; second or abusive petitions.

“2263. Filing of habeas corpus application; time requirements; tolling rules.

“2264. Scope of Federal review; district court adjudications.

“2265. Application to State unitary review procedure.

“2266. Limitation periods for determining applications and motions.

1 **“§ 2261. Prisoners in State custody subject to capital**
2 **sentence; appointment of counsel; re-**
3 **quirement of rule of court or statute; pro-**
4 **cedures for appointment**

5 “(a) This chapter shall apply to cases arising under
6 section 2254 brought by prisoners in State custody who
7 are subject to a capital sentence. It shall apply only if the
8 provisions of subsections (b) and (c) are satisfied.

9 “(b) This chapter is applicable if a State establishes
10 by statute, rule of its court of last resort, or by another
11 agency authorized by State law, a mechanism for the ap-
12 pointment, compensation, and payment of reasonable liti-
13 gation expenses of competent counsel in State post-convic-
14 tion proceedings brought by indigent prisoners whose cap-
15 ital convictions and sentences have been upheld on direct
16 appeal to the court of last resort in the State or have oth-
17 erwise become final for State law purposes. The rule of
18 court or statute must provide standards of competency for
19 the appointment of such counsel.

20 “(c) Any mechanism for the appointment, compensa-
21 tion, and reimbursement of counsel as provided in sub-
22 section (b) must offer counsel to all State prisoners under
23 capital sentence and must provide for the entry of an
24 order by a court of record—

25 “(1) appointing one or more counsel to rep-
26 resent the prisoner upon a finding that the prisoner

1 is indigent and accepted the offer or is unable com-
2 petently to decide whether to accept or reject the
3 offer;

4 “(2) finding, after a hearing if necessary, that
5 the prisoner rejected the offer of counsel and made
6 the decision with an understanding of its legal con-
7 sequences; or

8 “(3) denying the appointment of counsel upon
9 a finding that the prisoner is not indigent.

10 “(d) No counsel appointed pursuant to subsections
11 (b) and (c) to represent a State prisoner under capital
12 sentence shall have previously represented the prisoner at
13 trial or on direct appeal in the case for which the appoint-
14 ment is made unless the prisoner and counsel expressly
15 request continued representation.

16 “(e) The ineffectiveness or incompetence of counsel
17 during State or Federal post-conviction proceedings in a
18 capital case shall not be a ground for relief in a proceeding
19 arising under section 2254. This limitation shall not pre-
20 clude the appointment of different counsel, on the court’s
21 own motion or at the request of the prisoner, at any phase
22 of State or Federal post-conviction proceedings on the
23 basis of the ineffectiveness or incompetence of counsel in
24 such proceedings.

1 **“§ 2262. Mandatory stay of execution; duration; limits**
2 **on stays of execution; successive peti-**
3 **tions**

4 “(a) Upon the entry in the appropriate State court
5 of record of an order under section 2261(c), a warrant
6 or order setting an execution date for a State prisoner
7 shall be stayed upon application to any court that would
8 have jurisdiction over any proceedings filed under section
9 2254. The application shall recite that the State has in-
10 voked the post-conviction review procedures of this chapter
11 and that the scheduled execution is subject to stay.

12 “(b) A stay of execution granted pursuant to sub-
13 section (a) shall expire if—

14 “(1) a State prisoner fails to file a habeas cor-
15 pus application under section 2254 within the time
16 required in section 2263;

17 “(2) before a court of competent jurisdiction, in
18 the presence of counsel, unless the prisoner has com-
19 petently and knowingly waived such counsel, and
20 after having been advised of the consequences, a
21 State prisoner under capital sentence waives the
22 right to pursue habeas corpus review under section
23 2254; or

24 “(3) a State prisoner files a habeas corpus peti-
25 tion under section 2254 within the time required by
26 section 2263 and fails to make a substantial showing

1 of the denial of a Federal right or is denied relief
2 in the district court or at any subsequent stage of
3 review.

4 “(c) If one of the conditions in subsection (b) has
5 occurred, no Federal court thereafter shall have the au-
6 thority to enter a stay of execution in the case, unless the
7 court of appeals approves the filing of a second or succes-
8 sive application under section 2244(b).

9 **“§ 2263. Filing of habeas corpus application; time re-**
10 **quirements; tolling rules**

11 “(a) Any application under this chapter for habeas
12 corpus relief under section 2254 must be filed in the ap-
13 propriate district court not later than 180 days after final
14 State court affirmance of the conviction and sentence on
15 direct review or the expiration of the time for seeking such
16 review.

17 “(b) The time requirements established by subsection
18 (a) shall be tolled—

19 “(1) from the date that a petition for certiorari
20 is filed in the Supreme Court until the date of final
21 disposition of the petition if a State prisoner files
22 the petition to secure review by the Supreme Court
23 of the affirmance of a capital sentence on direct re-
24 view by the court of last resort of the State or other
25 final State court decision on direct review;

1 “(2) from the date on which the first petition
2 for post-conviction review or other collateral relief is
3 filed until the final State court disposition of such
4 petition; and

5 “(3) during an additional period not to exceed
6 30 days, if—

7 “(A) a motion for an extension of time is
8 filed in the Federal district court that would
9 have jurisdiction over the case upon the filing
10 of a habeas corpus application under section
11 2254; and

12 “(B) a showing of good cause is made for
13 the failure to file the habeas corpus application
14 within the time period established by this sec-
15 tion.

16 **“§ 2264. Scope of Federal review; district court adju-**
17 **dications**

18 “(a) Whenever a State prisoner under capital sen-
19 tence files a petition for habeas corpus relief to which this
20 chapter applies, the district court shall only consider a
21 claim or claims that have been raised and decided on the
22 merits in the State courts, unless the failure to raise the
23 claim properly is—

24 “(1) the result of State action in violation of
25 the Constitution or laws of the United States;

1 “(2) the result of the Supreme Court recogni-
2 tion of a new Federal right that is made retro-
3 actively applicable; or

4 “(3) based on a factual predicate that could not
5 have been discovered through the exercise of due
6 diligence in time to present the claim for State or
7 Federal post-conviction review.

8 “(b) Following review subject to subsections (a), (d),
9 and (e) of section 2254, the court shall rule on the claims
10 properly before it.

11 **“§ 2265. Application to State unitary review proce-**
12 **dure**

13 “(a) For purposes of this section, a ‘unitary review’
14 procedure means a State procedure that authorizes a per-
15 son under sentence of death to raise, in the course of di-
16 rect review of the judgment, such claims as could be raised
17 on collateral attack. This chapter shall apply, as provided
18 in this section, in relation to a State unitary review proce-
19 dure if the State establishes by rule of its court of last
20 resort or by statute a mechanism for the appointment,
21 compensation, and payment of reasonable litigation ex-
22 penses of competent counsel in the unitary review proceed-
23 ings, including expenses relating to the litigation of collat-
24 eral claims in the proceedings. The rule of court or statute

1 must provide standards of competency for the appoint-
2 ment of such counsel.

3 “(b) To qualify under this section, a unitary review
4 procedure must include an offer of counsel following trial
5 for the purpose of representation on unitary review, and
6 entry of an order, as provided in section 2261(c), concern-
7 ing appointment of counsel or waiver or denial of appoint-
8 ment of counsel for that purpose. No counsel appointed
9 to represent the prisoner in the unitary review proceedings
10 shall have previously represented the prisoner at trial in
11 the case for which the appointment is made unless the
12 prisoner and counsel expressly request continued represen-
13 tation.

14 “(c) Sections 2262, 2263, 2264, and 2266 shall apply
15 in relation to cases involving a sentence of death from any
16 State having a unitary review procedure that qualifies
17 under this section. References to State ‘post-conviction re-
18 view’ and ‘direct review’ in such sections shall be under-
19 stood as referring to unitary review under the State proce-
20 dure. The reference in section 2262(a) to ‘an order under
21 section 2261(c)’ shall be understood as referring to the
22 post-trial order under subsection (b) concerning represen-
23 tation in the unitary review proceedings, but if a tran-
24 script of the trial proceedings is unavailable at the time
25 of the filing of such an order in the appropriate State

1 court, then the start of the 180-day limitation period
2 under section 2263 shall be deferred until a transcript is
3 made available to the prisoner or counsel of the prisoner.

4 **“§ 2266. Limitation periods for determining applica-**
5 **tions and motions**

6 “(a) The adjudication of any application under sec-
7 tion 2254 that is subject to this chapter, and the adjudica-
8 tion of any motion under section 2255 by a person under
9 sentence of death, shall be given priority by the district
10 court and by the court of appeals over all noncapital mat-
11 ters.

12 “(b)(1)(A) A district court shall render a final deter-
13 mination and enter a final judgment on any application
14 for a writ of habeas corpus brought under this chapter
15 in a capital case not later than 180 days after the date
16 on which the application is filed.

17 “(B) A district court shall afford the parties at least
18 120 days in which to complete all actions, including the
19 preparation of all pleadings and briefs, and if necessary,
20 a hearing, prior to the submission of the case for decision.

21 “(C)(i) A district court may delay for not more than
22 one additional 30-day period beyond the period specified
23 in subparagraph (A), the rendering of a determination of
24 an application for a writ of habeas corpus if the court is-
25 sues a written order making a finding, and stating the

1 reasons for the finding, that the ends of justice that would
2 be served by allowing the delay outweigh the best interests
3 of the public and the applicant in a speedy disposition of
4 the application.

5 “(ii) The factors, among others, that a court shall
6 consider in determining whether a delay in the disposition
7 of an application is warranted are as follows:

8 “(I) Whether the failure to allow the delay
9 would be likely to result in a miscarriage of justice.

10 “(II) Whether the case is so unusual or so com-
11 plex, due to the number of defendants, the nature of
12 the prosecution, or the existence of novel questions
13 of fact or law, that it is unreasonable to expect ade-
14 quate briefing within the time limitations established
15 by subparagraph (A).

16 “(III) Whether the failure to allow a delay in
17 a case, that, taken as a whole, is not so unusual or
18 so complex as described in subclause (II), but would
19 otherwise deny the applicant reasonable time to ob-
20 tain counsel, would unreasonably deny the applicant
21 or the government continuity of counsel, or would
22 deny counsel for the applicant or the government the
23 reasonable time necessary for effective preparation,
24 taking into account the exercise of due diligence.

1 “(iii) No delay in disposition shall be permissible be-
2 cause of general congestion of the court’s calendar.

3 “(iv) The court shall transmit a copy of any order
4 issued under clause (i) to the Director of the Administra-
5 tive Office of the United States Courts for inclusion in
6 the report under paragraph (5).

7 “(2) The time limitations under paragraph (1) shall
8 apply to—

9 “(A) an initial application for a writ of habeas
10 corpus;

11 “(B) any second or successive application for a
12 writ of habeas corpus; and

13 “(C) any redetermination of an application for
14 a writ of habeas corpus following a remand by the
15 court of appeals or the Supreme Court for further
16 proceedings, in which case the limitation period shall
17 run from the date the remand is ordered.

18 “(3)(A) The time limitations under this section shall
19 not be construed to entitle an applicant to a stay of execu-
20 tion, to which the applicant would otherwise not be enti-
21 tled, for the purpose of litigating any application or ap-
22 peal.

23 “(B) No amendment to an application for a writ of
24 habeas corpus under this chapter shall be permitted after

1 the filing of the answer to the application, except on the
2 grounds specified in section 2244(b).

3 “(4)(A) The failure of a court to meet or comply with
4 a time limitation under this section shall not be a ground
5 for granting relief from a judgment of conviction or sen-
6 tence.

7 “(B) The State may enforce a time limitation under
8 this section by petitioning for a writ of mandamus to the
9 court of appeals. The court of appeals shall act on the
10 petition for a writ or mandamus not later than 30 days
11 after the filing of the petition.

12 “(5)(A) The Administrative Office of United States
13 Courts shall submit to Congress an annual report on the
14 compliance by the district courts with the time limitations
15 under this section.

16 “(B) The report described in subparagraph (A) shall
17 include copies of the orders submitted by the district
18 courts under paragraph (1)(B)(iv).

19 “(c)(1)(A) A court of appeals shall hear and render
20 a final determination of any appeal of an order granting
21 or denying, in whole or in part, an application brought
22 under this chapter in a capital case not later than 120
23 days after the date on which the reply brief is filed, or
24 if no reply brief is filed, not later than 120 days after
25 the date on which the answering brief is filed.

1 “(B)(i) A court of appeals shall decide whether to
2 grant a petition for rehearing or other request for rehear-
3 ing en banc not later than 30 days after the date on which
4 the petition for rehearing is filed unless a responsive
5 pleading is required, in which case the court shall decide
6 whether to grant the petition not later than 30 days after
7 the date on which the responsive pleading is filed.

8 “(ii) If a petition for rehearing or rehearing en banc
9 is granted, the court of appeals shall hear and render a
10 final determination of the appeal not later than 120 days
11 after the date on which the order granting rehearing or
12 rehearing en banc is entered.

13 “(2) The time limitations under paragraph (1) shall
14 apply to—

15 “(A) an initial application for a writ of habeas
16 corpus;

17 “(B) any second or successive application for a
18 writ of habeas corpus; and

19 “(C) any redetermination of an application for
20 a writ of habeas corpus or related appeal following
21 a remand by the court of appeals en banc or the Su-
22 preme Court for further proceedings, in which case
23 the limitation period shall run from the date the re-
24 mand is ordered.

1 “(3) The time limitations under this section shall not
 2 be construed to entitle an applicant to a stay of execution,
 3 to which the applicant would otherwise not be entitled, for
 4 the purpose of litigating any application or appeal.

5 “(4)(A) The failure of a court to meet or comply with
 6 a time limitation under this section shall not be a ground
 7 for granting relief from a judgment of conviction or sen-
 8 tence.

9 “(B) The State may enforce a time limitation under
 10 this section by applying for a writ of mandamus to the
 11 Supreme Court.

12 “(5) The Administrative Office of United States
 13 Courts shall submit to Congress an annual report on the
 14 compliance by the courts of appeals with the time limita-
 15 tions under this section.”.

16 (b) TECHNICAL AMENDMENT.—The part analysis for
 17 part IV of title 28, United States Code, is amended by
 18 adding after the item relating to chapter 153 the following
 19 new item:

**“154. Special habeas corpus procedures in capital
 cases 2261.”.**

20 **SEC. 708. TECHNICAL AMENDMENT.**

21 Section 408(q) of the Controlled Substances Act (21
 22 U.S.C. 848(q)) is amended—

23 (1) in paragraph (4)(A), by striking “shall” and
 24 inserting “may”;

1 (2) in paragraph (4)(B), by striking “shall”
2 and inserting “may”; and

3 (3) by amending paragraph (9) to read as fol-
4 lows:

5 “(9) Upon a finding that investigative, expert, or
6 other services are reasonably necessary for the representa-
7 tion of the defendant, whether in connection with issues
8 relating to guilt or the sentence, the court may authorize
9 the defendant’s attorneys to obtain such services on behalf
10 of the defendant and, if so authorized, shall order the pay-
11 ment of fees and expenses therefor under paragraph (10).
12 No ex parte proceeding, communication, or request may
13 be considered pursuant to this section unless a proper
14 showing is made concerning the need for confidentiality.
15 Any such proceeding, communication, or request shall be
16 transcribed and made a part of the record available for
17 appellate review.”.

18 **Subtitle B—Criminal Procedural**
19 **Improvements**

20 **SEC. 721. CLARIFICATION AND EXTENSION OF CRIMINAL**
21 **JURISDICTION OVER CERTAIN TERRORISM**
22 **OFFENSES OVERSEAS.**

23 (a) Section 46502(b) of title 49, United States Code,
24 is amended—

1 (1) in paragraph (1), by striking “and later
2 found in the United States”;

3 (2) by amending paragraph (2) to read as fol-
4 lows:

5 “(2) The courts of the United States have juris-
6 diction over the offense in paragraph (1) if—

7 “(A) a national of the United States was
8 aboard the aircraft;

9 “(B) an offender is a national of the Unit-
10 ed States; or

11 “(C) an offender is afterwards found in the
12 United States.”; and

13 (3) by adding at the end the following new
14 paragraph:

15 “(3) For purposes of this subsection, the term
16 ‘national of the United States’ has the meaning
17 given such term in section 101(a)(22) of the Immi-
18 gration and Nationality Act (8 U.S.C.
19 1101(a)(22)).”.

20 (b) Section 32(b) of title 18, United States Code, is
21 amended—

22 (1) by striking “(b) Whoever” and inserting
23 “(b)(1) Whoever”;

24 (2) by redesignating paragraphs (1) through
25 (4) as subparagraphs (A) through (D);

1 (3) by striking “, if the offender is later found
2 in the United States,”; and

3 (4) by adding at the end the following new
4 paragraphs:

5 “(2) The courts of the United States have jurisdiction
6 over an offense described in this subsection if—

7 “(A) a national of the United States was on
8 board, or would have been on board, the aircraft;

9 “(B) an offender is a national of the United
10 States; or

11 “(C) an offender is afterwards found in the
12 United States.

13 “(3) For purposes of this subsection, the term ‘na-
14 tional of the United States’ has the meaning given such
15 term in section 101(a)(22) of the Immigration and Na-
16 tionality Act (8 U.S.C. 1101(a)(22)).’”.

17 (c) Section 1116 of title 18, United States Code, is
18 amended—

19 (1) in subsection (b), by adding at the end the
20 following new paragraph:

21 “(7) ‘National of the United States’ has the
22 meaning given such term in section 101(a)(22) of
23 the Immigration and Nationality Act (8 U.S.C.
24 1101(a)(22)).’”; and

1 (2) in subsection (c), by striking the first sen-
2 tence and inserting the following: “If the victim of
3 an offense under subsection (a) is an internationally
4 protected person outside the United States, the
5 United States may exercise jurisdiction over the of-
6 fense if (1) the victim is a representative, officer,
7 employee, or agent of the United States, (2) an of-
8 fender is a national of the United States, or (3) an
9 offender is afterwards found in the United States.”.

10 (d) Section 112 of title 18, United States Code, is
11 amended—

12 (1) in subsection (c), by inserting “national of
13 the United States,” before “and”; and

14 (2) in subsection (e), by striking the first sen-
15 tence and inserting the following: “If the victim of
16 an offense under subsection (a) is an internationally
17 protected person outside the United States, the
18 United States may exercise jurisdiction over the of-
19 fense if (1) the victim is a representative, officer,
20 employee, or agent of the United States, (2) an of-
21 fender is a national of the United States, or (3) an
22 offender is afterwards found in the United States.”.

23 (e) Section 878 of title 18, United States Code, is
24 amended—

1 (1) in subsection (c), by inserting “national of
2 the United States,” before “and”; and

3 (2) in subsection (d), by striking the first sen-
4 tence and inserting the following: “If the victim of
5 an offense under subsection (a) is an internationally
6 protected person outside the United States, the
7 United States may exercise jurisdiction over the of-
8 fense if (1) the victim is a representative, officer,
9 employee, or agent of the United States, (2) an of-
10 fender is a national of the United States, or (3) an
11 offender is afterwards found in the United States.”.

12 (f) Section 1201(e) of title 18, United States Code,
13 is amended—

14 (1) by striking the first sentence and inserting
15 the following: “If the victim of an offense under sub-
16 section (a) is an internationally protected person
17 outside the United States, the United States may
18 exercise jurisdiction over the offense if (1) the victim
19 is a representative, officer, employee, or agent of the
20 United States, (2) an offender is a national of the
21 United States, or (3) an offender is afterwards
22 found in the United States.”; and

23 (2) by adding at the end the following: “For
24 purposes of this subsection, the term ‘national of the
25 United States’ has the meaning given such term in

1 section 101(a)(22) of the Immigration and National-
2 ity Act (8 U.S.C. 1101(a)(22)).”.

3 (g) Section 37(b)(2) of title 18, United States Code,
4 is amended to read as follows:

5 “(2) the prohibited activity takes place outside
6 the United States, and—

7 “(A) the offender is later found in the
8 United States; or

9 “(B) an offender or a victim is a national
10 of the United States (as defined in section
11 101(a)(22) of the Immigration and Nationality
12 Act (8 U.S.C. 1101(a)(22))).”.

13 (h) Section 178 of title 18, United States Code, is
14 amended—

15 (1) by striking the “and” at the end of para-
16 graph (3);

17 (2) by striking the period at the end of para-
18 graph (4) and inserting “; and”; and

19 (3) by adding at the end the following new
20 paragraph:

21 “(5) the term ‘national of the United States’
22 has the meaning given such term in section
23 101(a)(22) of the Immigration and Nationality Act
24 (8 U.S.C. 1101(a)(22)).”.

1 **SEC. 722. EXTENSION OF TERRITORIAL SEA.**

2 (a) TERRITORIAL SEA EXTENDING TO TWELVE
3 MILES INCLUDED IN SPECIAL MARITIME AND TERRI-
4 TORIAL JURISDICTION.—The Congress declares that all
5 the territorial sea of the United States, as defined by Pres-
6 idential Proclamation 5928 of December 27, 1988, is part
7 of the United States, subject to its sovereignty, and, for
8 purposes of Federal criminal jurisdiction, is within the
9 special maritime and territorial jurisdiction of the United
10 States wherever that term is used in title 18, United
11 States Code.

12 (b) ASSIMILATED CRIMES IN EXTENDED TERRI-
13 TORIAL SEA.—Section 13 of title 18, United States Code
14 (relating to the adoption of State laws for areas within
15 Federal jurisdiction), is amended—

16 (1) in subsection (a), by inserting after “title,”
17 the following: “or on, above, or below any portion of
18 the territorial sea of the United States not within
19 the territory of any State, Territory, Possession, or
20 District”; and

21 (2) by adding at the end the following new sub-
22 section:

23 “(c) Whenever any waters of the territorial sea of the
24 United States lie outside the territory of any State, Terri-
25 tory, Possession, or District, such waters (including the
26 airspace above and the seabed and subsoil below, and arti-

1 ficial islands and fixed structures erected thereon) shall
 2 be deemed for purposes of subsection (a) to lie within the
 3 area of that State, Territory, Possession, or District it
 4 would lie within if the boundaries of such State, Territory,
 5 Possession, or District were extended seaward to the outer
 6 limit of the territorial sea of the United States.”.

7 **SEC. 723. JURISDICTION OF UNITED STATES COURTS OVER**
 8 **ACTS OF INTERNATIONAL TERRORISM.**

9 (a) INAPPLICABILITY OF FOREIGN SOVEREIGN IM-
 10 MUNITY IN CASES INVOLVING ACTS OF INTERNATIONAL
 11 TERRORISM.—

12 (1) DEFINITION.—Section 1603 of title 28,
 13 United States Code, is amended by adding at the
 14 end the following new subsection:

15 “(f) The term ‘act of international terrorism’
 16 means an act—

17 “(1) that is violent or dangerous to human
 18 life and that is a violation of the criminal laws
 19 of the United States or of any State or that
 20 would be a criminal violation if committed with-
 21 in the jurisdiction of the United States or any
 22 State; and

23 “(2) that appears to be intended—

24 “(A) to intimidate or coerce a civilian
 25 population;

1 “(B) to influence the policy of a gov-
2 ernment by intimidation or coercion; or

3 “(C) to affect the conduct of a gov-
4 ernment by assassination or kidnapping.

5 “(g) The term ‘permanent resident alien’ means
6 an alien who has been lawfully admitted to the Unit-
7 ed States for permanent residence.”.

8 (2) ADDITIONAL EXCEPTION TO FOREIGN
9 STATE IMMUNITY.—Section 1605(a) of title 28,
10 United States Code, is amended—

11 (A) by striking “or” at the end of para-
12 graph (5);

13 (B) by striking the period at the end of
14 paragraph (6) and inserting “; or”; and

15 (C) by adding at the end the following new
16 paragraph:

17 “(7) in which the action is based upon an act
18 of international terrorism—

19 “(A) within the United States; or

20 “(B) outside the United States if money
21 damages are sought against a foreign state for
22 personal injury or death to a United States citi-
23 zen or permanent resident alien,

24 which act occurred not more than 6 years previously
25 and which was committed or aided or abetted by a

1 foreign state that was designated by the Secretary of
 2 State as a state repeatedly providing support for
 3 acts of international terrorism under section 40(d)
 4 of the Arms Export Control Act.”.

5 (3) PROPERTY SUBJECT TO EXECUTION UPON A
 6 JUDGMENT.—Section 1610(a) of title 28, United
 7 States Code, is amended—

8 (A) by striking “or” at the end of para-
 9 graph (5);

10 (B) by striking the period at the end of
 11 paragraph (6) and inserting “; or”; and

12 (C) by adding at the end the following new
 13 paragraph:

14 “(7) the execution relates to a judgment en-
 15 tered in a case based upon an act of international
 16 terrorism—

17 “(A) within the United States; or

18 “(B) outside the United States if money
 19 damages are sought against a foreign state for
 20 personal injury or death to a United States citi-
 21 zen or permanent resident alien,

22 which act occurred not more than 6 years previously
 23 and which was committed or aided or abetted by a
 24 foreign state that was designated by the Secretary of
 25 State as a state repeatedly providing support for

1 acts of international terrorism under section 40(d)
2 of the Arms Export Control Act.”.

3 (4) ATTACHMENT OF PROPERTY PRIOR TO
4 ENTRY OF JUDGMENT.—Section 1610(d) of title 28,
5 United States Code, is amended—

6 (A) by redesignating paragraph (1) as
7 paragraph (1)(A);

8 (B) by striking “and” at the end of para-
9 graph (1)(A) and inserting “or”; and

10 (C) by inserting after paragraph (1)(A) the
11 following:

12 “(B) the foreign state is not immune from ju-
13 risdiction by virtue of the operation of section
14 1605(a)(7); and”.

15 (b) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY
16 FOR CERTAIN CASES INVOLVING TORTURE,
17 EXTRAJUDICIAL KILLING, AIRCRAFT SABOTAGE, HOS-
18 TAGE TAKING, OR GENOCIDE IN A FOREIGN STATE.—Sec-
19 tion 1605 of title 28, United States Code (as amended
20 by section 206, and subsection (a) of this section), is
21 amended—

22 (1) in subsection (a)—

23 (A) by striking “or” at the end of para-
24 graph (6);

1 (B) by striking the period at the end of
2 paragraph (7) and inserting “; or”; and

3 (C) by adding at the end the following new
4 paragraph:

5 “(8) not otherwise encompassed in paragraph
6 (2), in which money damages are sought against a
7 foreign state for personal injury or death of a Unit-
8 ed States citizen and caused by the torture or
9 extrajudicial killing of that citizen, or by an act of
10 aircraft sabotage, hostage taking, or genocide com-
11 mitted against that citizen, by such foreign state or
12 by any official, employee, or agent of such foreign
13 state while acting within the scope of his or her of-
14 fice, employment, or agency, except that—

15 “(A) an action under this paragraph shall
16 not be maintained unless the individual whose
17 injury or death gave rise to the action was a
18 United States citizen at the time the conduct
19 causing such injury or death occurred;

20 “(B) the court shall decline to hear a claim
21 under this paragraph if the claimant has not
22 exhausted adequate and available remedies in
23 the place in which the conduct giving rise to the
24 claim occurred and has not afforded the foreign
25 state an opportunity to arbitrate the claim be-

1 fore an international tribunal in accordance
 2 with international standards; and

3 “(C) an action under this paragraph shall
 4 not be maintained unless—

5 “(i) the action is brought within 10
 6 years after the cause of action accrues; or

7 “(ii) the cause of action is based on
 8 an act of genocide occurring more than 10
 9 years before the date of the enactment of
 10 this paragraph and the action is brought
 11 within 18 months after such date.”; and

12 (2) by adding at the end the following new sub-
 13 section:

14 “(f) For purposes of paragraph (8)—

15 “(1) the terms ‘torture’ and ‘extrajudicial kill-
 16 ing’ have the meanings given those terms in section
 17 3 of the Torture Victim Protection Act of 1991;

18 “(2) the term ‘hostage taking’ has the meaning
 19 given such term in Article 1 of the International
 20 Convention Against the Taking of Hostages;

21 “(3) the term ‘aircraft sabotage’ has the mean-
 22 ing given such term in Article 1 of the Convention
 23 for the Suppression of Unlawful Acts Against the
 24 Safety of Civil Aviation; and

1 “(4) the term ‘act of genocide’ means conduct
2 that would be a violation of section 1091 of title 18,
3 United States Code, if committed in the United
4 States.”.

5 (c) EXCEPTION TO IMMUNITY FROM ATTACH-
6 MENT.—

7 (1) FOREIGN STATE.—Section 1610(a) of title
8 28, United States Code, is amended—

9 (A) by striking “or” at the end of para-
10 graph (6);

11 (B) by striking the period at the end of
12 paragraph (7) and inserting “, or”; and

13 (C) by adding at the end the following new
14 paragraph:

15 “(8) the judgment relates to a claim for which
16 the foreign state is not immune under of section
17 1605(a)(8), regardless of whether the property is or
18 was involved in the act upon which the claim is
19 based.”.

20 (2) AGENCY OR INSTRUMENTALITY.—Section
21 1610(b)(2) of such title is amended—

22 (A) by striking “or (5)” and inserting
23 “(5), or (7)”; and

24 (B) by striking “used for the activity” and
25 inserting “involved in the act”.

1 (c) APPLICABILITY.—The amendments made by this
 2 section shall apply to any cause of action arising before,
 3 on, or after the date of the enactment of this Act.

4 **SEC. 724. ADDITION OF FOREIGN MURDER AS A MONEY**
 5 **LAUNDERING PREDICATE.**

6 Section 1956(c)(7)(D) of title 18, United States
 7 Code, is amended by inserting “section 2115 (relating to
 8 postal burglary),” before “or section 2319”.

9 **SEC. 725. EXPANSION OF WEAPONS OF MASS DESTRUCTION**
 10 **STATUTE.**

11 (a) IN GENERAL.—Section 2332a of title 18, United
 12 States Code, is amended—

13 (1) in subsection (a), by inserting “threatens,”
 14 before “attempts”;

15 (2) by redesignating subsection (b) as sub-
 16 section (c);

17 (3) by adding immediately after subsection (a)
 18 the following new subsection:

19 “(b) USE OUTSIDE UNITED STATES.—Any national
 20 of the United States who outside of the United States
 21 uses, threatens, attempts, or conspires to use, a weapon
 22 of mass destruction, shall be imprisoned for any term of
 23 years or for life, and if death results, shall be punished
 24 by death or imprisonment for any term of years or for
 25 life.”; and

1 (4) by amending subsection (c)(2)(B), as redes-
2 ignated by paragraph (3), by striking “poison gas”
3 and inserting “any poisonous chemical agent or sub-
4 stance, regardless of form or delivery system, de-
5 signed for or capable of causing widespread death or
6 injury;”.

7 (b) DEFINITION OF DESTRUCTIVE DEVICE.—Section
8 921(a)(4)(A) of title 18, United States Code, is amended
9 by striking “poison gas” and inserting “poisonous chemi-
10 cal agent or substance”.

11 (c) CONFORMING AMENDMENT.—Section 5845(f)(1)
12 of the Internal Revenue Code of 1986 is amended by strik-
13 ing “poison gas” and inserting “poisonous chemical agent
14 or substance”.

15 **SEC. 726. ADDITION OF TERRORIST OFFENSES TO THE**
16 **RICO STATUTE.**

17 (a) Section 1961(1)(B) of title 18, United States
18 Code, is amended—

19 (1) by inserting after “Section” the following:
20 “32 (relating to the destruction of aircraft), section
21 37 (relating to violence at international airports),
22 section 115 (relating to influencing, impeding, or re-
23 taliating against a Federal official by threatening or
24 injuring a family member), section”;

1 (2) by inserting after “section 224 (relating to
2 sports bribery),” the following: “section 351 (relat-
3 ing to Congressional or Cabinet officer assassina-
4 tion),”;

5 (3) by inserting after “section 664 (relating to
6 embezzlement from pension and welfare funds),” the
7 following: “section 831 (relating to prohibited trans-
8 actions involving nuclear materials), section 844 (f)
9 or (i) (relating to destruction by explosives or fire of
10 government property or property affecting interstate
11 or foreign commerce),”;

12 (4) by inserting after “sections 891–894 (relat-
13 ing to extortionate credit transactions),” the follow-
14 ing: “section 956 (relating to conspiracy to kill, kid-
15 nap, maim, or injure certain property in a foreign
16 country),”;

17 (5) by inserting after “section 1084 (relating to
18 the transmission of gambling information),” the fol-
19 lowing: “section 1111 (relating to murder), section
20 1114 (relating to murder of United States law en-
21 forcement officials), section 1116 (relating to mur-
22 der of foreign officials, official guests, or internation-
23 ally protected persons), section 1203 (relating to
24 hostage taking),”;

1 (6) by inserting after “section 1344 (relating to
2 financial institution fraud),” the following: “section
3 1361 (relating to willful injury of government prop-
4 erty within the special maritime and territorial juris-
5 diction),”;

6 (7) by inserting after “section 1513 (relating to
7 retaliating against a witness, victim, or an inform-
8 ant),” the following: “section 1751 (relating to Pres-
9 idential assassination),”;

10 (8) by inserting after “section 1958 (relating to
11 use of interstate commerce facilities in the commis-
12 sion of murder-for-hire),” the following: “section
13 2280 (relating to violence against maritime naviga-
14 tion), section 2281 (relating to violence against mar-
15 itime fixed platforms),”; and

16 (9) by inserting after “2321 (relating to traf-
17 ficking in certain motor vehicles or motor vehicle
18 parts),” the following: “section 2332 (relating to ter-
19 rorist acts abroad against United States nationals),
20 section 2332a (relating to use of weapons of mass
21 destruction), section 2332b (relating to acts of ter-
22 rorism transcending national boundaries), section
23 2339A (relating to providing material support to ter-
24 rorists),”.

1 (b) Section 1961(1) of title 18, United States Code,
2 is amended—

3 (1) by striking “or” before “(E)”; and

4 (2) by inserting at the semicolon at the end the
5 following: “, or (F) section 46502 of title 49, United
6 States Code”.

7 **SEC. 727. ADDITION OF TERRORISM OFFENSES TO THE**
8 **MONEY LAUNDERING STATUTE.**

9 (a) Section 1956(c)(7)(B)(ii) of title 18, United
10 States Code, is amended to read as follows:

11 “(ii) murder, kidnapping, robbery, extor-
12 tion, or destruction of property by means of ex-
13 plosive or fire;”.

14 (b) Section 1956(c)(7)(D) of title 18, United States
15 Code, is amended—

16 (1) by inserting after “an offense under” the
17 following: “section 32 (relating to the destruction of
18 aircraft), section 37 (relating to violence at inter-
19 national airports), section 115 (relating to influenc-
20 ing, impeding or retaliating against a Federal offi-
21 cial by threatening or injuring a family member),”;

22 (2) by inserting after “section 215 (relating to
23 commissions or gifts for procuring loans),” the fol-
24 lowing: “section 351 (relating to Congressional or
25 Cabinet officer assassination),”;

1 (3) by inserting after “section 798 (relating to
2 espionage),” the following: “section 831 (relating to
3 prohibited transactions involving nuclear materials),
4 section 844 (f) or (i) (relating to destruction by ex-
5 plosives or fire of Government property or property
6 affecting interstate or foreign commerce),”;

7 (4) by inserting after “section 875 (relating to
8 interstate communications),” the following: “section
9 956 (relating to conspiracy to kill, kidnap, maim, or
10 injure certain property in a foreign country),”;

11 (5) by inserting after “section 1032 (relating to
12 concealment of assets from conservator, receiver, or
13 liquidating agent of financial institution),” the fol-
14 lowing: “section 1111 (relating to murder), section
15 1114 (relating to murder of United States law en-
16 forcement officials), section 1116 (relating to mur-
17 der of foreign officials, official guests, or internation-
18 ally protected persons),”;

19 (6) by inserting after “section 1203 (relating to
20 hostage taking)” the following: “section 1361 (relat-
21 ing to willful injury of Government property), sec-
22 tion 1363 (relating to destruction of property within
23 the special maritime and territorial jurisdiction),”;

1 (7) by inserting after “section 1708 (relating to
2 theft from the mail” the following:”), section 1751
3 (relating to Presidential assassination),”;

4 (8) by inserting after “2114 (relating to bank
5 and postal robbery and theft),” the following: “sec-
6 tion 2280 (relating to violence against maritime
7 navigation), section 2281 (relating to violence
8 against maritime fixed platforms),”; and

9 (9) by striking “of this title” and inserting the
10 following: “section 2332 (relating to terrorist acts
11 abroad against United States nationals), section
12 2332a (relating to use of weapons of mass destruc-
13 tion), section 2332b (relating to international terror-
14 ist acts transcending national boundaries), 2339A
15 (relating to providing material support to terrorists)
16 of this title, section 46502 of title 49, United States
17 Code,”.

18 **SEC. 728. CLARIFICATION OF MARITIME VIOLENCE JURIS-**
19 **DICTION.**

20 Section 2280(b)(1)(A) of title 18, United States
21 Code, is amended—

22 (1) in clause (ii), by striking “and the activity
23 is not prohibited as a crime by the State in which
24 the activity takes place”; and

1 (2) in clause (iii), by striking “the activity takes
2 place on a ship flying the flag of a foreign country
3 or outside of the United States,”.

4 **SEC. 729. PROTECTION OF CURRENT OR FORMER OFFI-**
5 **CIALS, OFFICERS, OR EMPLOYEES OF THE**
6 **UNITED STATES.**

7 (a) AMENDMENT TO INCLUDE ASSAULTS, MURDERS,
8 AND THREATS AGAINST FAMILIES OF FEDERAL OFFI-
9 CIALS.—Section 115(a)(2) of title 18, United States Code,
10 is amended by inserting “, or threatens to assault, kidnap,
11 or murder, any person who formerly served as a person
12 designed in paragraph (1), or” after “assaults, kidnaps,
13 or murders, or attempts to kidnap or murder”.

14 (b) MURDER OR ATTEMPTS TO MURDER CURRENT
15 OR FORMER FEDERAL OFFICERS OR EMPLOYEES.—Sec-
16 tion 1114 of title 18, United States Code, is amended to
17 read as follows:

18 **“§ 1114. Protection of officers and employees of the**
19 **United States**

20 “(a) Except as provided in subsection (b), whoever
21 kills or attempts to kill a current or former officer or em-
22 ployee of the United States or its instrumentalities, or an
23 immediate family member of such officer or employee,
24 during or in connection with performance of their profes-
25 sional duties, shall be punished—

1 “(1) in the case of murder, as provided under
2 section 1111;

3 “(2) in the case of manslaughter, as provided
4 under section 1112.

5 “(b) Any person who is found guilty of attempted
6 murder under this section shall be imprisoned for not
7 more than 20 years.”.

8 **SEC. 730. ADDITION OF CONSPIRACY TO TERRORISM OF-**
9 **FENSES.**

10 (a)(1) Section 32(a)(7) of title 18, United States
11 Code, is amended by inserting “or conspires” after “at-
12 tempts”.

13 (2) Section 32(b)(D) of title 18, United States Code,
14 as redesignated by section 721(b)(2), is amended by in-
15 serting “or conspires” after “attempts”.

16 (b) Section 37(a) title 18, United States Code, is
17 amended by inserting “or conspires” after “attempts”.

18 (c)(1) Section 115(a)(1)(A) of title 18, United States
19 Code, is amended by inserting “or conspires” after “at-
20 tempts”.

21 (2) Section 115(a)(2) of title 18, United States Code,
22 as amended by section 729, is further amended by insert-
23 ing “or conspires” after “attempts”.

24 (3) Section 115(b)(2) of title 18, United States Code,
25 is amended by striking both times it appears “or at-

1 tempted kidnapping” and inserting both times “, at-
2 tempted kidnapping or conspiracy to kidnap”.

3 (4)(A) Section 115(b)(3) of title 18, United States
4 Code, is amended by striking “or attempted murder” and
5 inserting “, attempted murder or conspiracy to murder”.

6 (B) Section 115(b)(3) of title 18, United States Code,
7 is further amended by striking “and 1113” and inserting
8 “, 1113 and 1117”.

9 (d) Section 175(a) of title 18, United States Code,
10 is amended by inserting “, or conspires to do so,” after
11 “any organization to do so,”.

12 (e) Section 1203(a) of title 18, United States Code,
13 is amended by inserting “or conspires” after “attempts”.

14 (f) Section 2280(a)(1)(H) of title 18, United States
15 Code, is amended by inserting “or conspires” after “at-
16 tempts”.

17 (g) Section 2281(a)(1)(F) of title 18, United States
18 Code, is amended by inserting “or conspires” after “at-
19 tempts”.

20 (h)(1) Section 46502 of title 49, United States Code,
21 is amended—

22 (A) in subsection (a)(2), by inserting “, conspir-
23 ing,” after “committing” and

24 (B) in subsection (b)(1), by inserting “or con-
25 spiring to commit” after “committing”.

1 (2) Section 46505(b) of title 49, United States Code,
2 is amended—

3 (A) in paragraph (2), by inserting “conspired
4 or” after “has placed,”; and

5 (B) in paragraph (3), by inserting “conspired
6 or” after “has placed,”.

7 **SEC. 731. PRETRIAL DETENTION FOR POSSESSION OF FIRE-**
8 **ARMS OR EXPLOSIVES BY CONVICTED FEL-**
9 **ONS.**

10 Section 3156(a)(4) of title 18, United States Code,
11 is amended—

12 (1) by striking “or” at the end of subparagraph
13 (B);

14 (2) by striking the period at the end of sub-
15 paragraph (C) and inserting “; or”; and

16 (3) by adding after subparagraph (C) the fol-
17 lowing new subparagraph:

18 “(D) an offense that is a violation of sec-
19 tion 842(i) or 922(g) of this title (relating to
20 possession of explosives or firearms by convicted
21 felons).”.

22 **SEC. 732. INCLUSION OF ALIEN SMUGGLING AS A RICO**
23 **PREDICATE.**

24 Section 1961(1) of title 18, United States Code, is
25 amended—

- 1 (1) by striking “or” before “(E) any Act”; and
2 (2) by inserting after “Currency and Foreign
3 Transactions Reporting Act” the following: “, or (F)
4 any act (or conspiracy to commit any act) which is
5 indictable under section 274, 277, or 278 of the Im-
6 migration and Nationality Act (8 U.S.C. 1324,
7 1327, or 1328 (pertaining to prohibitions on bring-
8 ing in and harboring certain aliens))”.

9 **TITLE VIII—MARKING OF**
10 **PLASTIC EXPLOSIVES**

11 **SEC. 801. IMPLEMENTATION OF THE CONVENTION ON THE**
12 **MARKING OF PLASTIC EXPLOSIVES.**

13 (a) DEFINITIONS.—Section 841 of title 18, United
14 States Code, is amended by adding at the end the follow-
15 ing new subsections:

16 “(o) ‘Convention on the Marking of Plastic Explo-
17 sives’ means the Convention on the Marking of Plastic Ex-
18 plosives for the Purpose of Detection, Done at Montreal
19 on 1 March 1991.

20 “(p) ‘Detection agent’ means any one of the sub-
21 stances specified in this subsection when introduced into
22 a plastic explosive or formulated in such explosive as a
23 part of the manufacturing process in such a manner as
24 to achieve homogeneous distribution in the finished explo-
25 sive, including—

1 “(1) Ethylene glycol dinitrate (EGDN),
2 $C_2H_4(NO_3)_2$, molecular weight 152, when the mini-
3 mum concentration in the finished explosive is 0.2
4 percent by mass;

5 “(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB),
6 $C_6H_{12}(NO_2)_2$, molecular weight 176, when the mini-
7 mum concentration in the finished explosive is 0.1
8 percent by mass;

9 “(3) Para-Mononitrotoluene (p-MNT),
10 $C_7H_7NO_2$, molecular weight 137, when the minimum
11 concentration in the finished explosive is 0.5 percent
12 by mass;

13 “(4) Ortho-Mononitrotoluene (o-MNT),
14 $C_7H_7NO_2$, molecular weight 137, when the minimum
15 concentration in the finished explosive is 0.5 percent
16 by mass; and

17 “(5) any other substance in the concentration
18 specified by the Secretary, after consultation with
19 the Secretary of State and the Secretary of Defense,
20 which has been added to the table in part 2 of the
21 Technical Annex to the Convention on the Marking
22 of Plastic Explosives.

23 “(q) ‘Plastic explosive’ means an explosive material
24 in flexible or elastic sheet form formulated with one or
25 more high explosives which in their pure form have a

1 vapor pressure less than 10^{-4} Pa at a temperature of
2 25°C., is formulated with a binder material, and is as a
3 mixture malleable or flexible at normal room tempera-
4 ture.”.

5 (b) REQUIREMENT OF DETECTION AGENTS FOR
6 PLASTIC EXPLOSIVES.—Section 842 of title 18, United
7 States Code, is amended by adding after subsection (k)
8 the following new subsections:

9 “(l) It shall be unlawful for any person to manufac-
10 ture any plastic explosive that does not contain a detection
11 agent.

12 “(m)(1) It shall be unlawful for any person to import
13 or bring into the United States, or export from the United
14 States, any plastic explosive that does not contain a detec-
15 tion agent.

16 “(2) This subsection does not apply to the importa-
17 tion or bringing into the United States, or the exportation
18 from the United States, of any plastic explosive that was
19 imported, brought into, or manufactured in the United
20 States prior to the date of enactment of the Omnibus
21 Counterterrorism Act of 1995 by or on behalf of any agen-
22 cy of the United States performing military or police func-
23 tions (including any military Reserve component) or by or
24 on behalf of the National Guard of any State, not later
25 than 15 years after the date of entry into force of the

1 Convention on the Marking of Plastic Explosives, with re-
2 spect to the United States.

3 “(n)(1) It shall be unlawful for any person to ship,
4 transport, transfer, receive, or possess any plastic explo-
5 sive that does not contain a detection agent.

6 “(2) This subsection does not apply to—

7 “(A) the shipment, transportation, transfer, re-
8 ceipt, or possession of any plastic explosive that was
9 imported, brought into, or manufactured in the
10 United States prior to the date of enactment of the
11 Omnibus Counterterrorism Act of 1995 by any per-
12 son during a period not exceeding 3 years after the
13 such date; or

14 “(B) the shipment, transportation, transfer, re-
15 ceipt, or possession of any plastic explosive that was
16 imported, brought into, or manufactured in the
17 United States prior to the date of enactment of the
18 Omnibus Counterterrorism Act of 1995 by or on be-
19 half of any agency of the United States performing
20 a military or police function (including any military
21 reserve component) or by or on behalf of the Na-
22 tional Guard of any State, not later than 15 years
23 after the date of entry into force of the Convention
24 on the Marking of Plastic Explosives, with respect to
25 the United States.

1 “(o) It shall be unlawful for any person, other than
2 an agency of the United States (including any military re-
3 serve component) or the National Guard of any State, pos-
4 sessing any plastic explosive on the date of enactment of
5 the Omnibus Counterterrorism Act of 1995, to fail to re-
6 port to the Secretary within 120 days after such the quan-
7 tity of such explosives possessed, the manufacturer or im-
8 porter, any marks of identification on such explosives, and
9 such other information as the Secretary may by regula-
10 tions prescribe.”.

11 (c) CRIMINAL SANCTIONS.—Section 844(a) of title
12 18, United States Code, is amended to read as follows:

13 “(a) Any person who violates any of subsections (a)
14 through (i) or (l) through (o) of section 842 shall be fined
15 under this title or imprisoned not more than 10 years, or
16 both.”.

17 (d) EXCEPTIONS.—Section 845 of title 18, United
18 States Code, is amended—

19 (1) in subsection (a), by inserting “(l), (m), (n),
20 or (o) of section 842 and subsections” after “sub-
21 sections”;

22 (2) in paragraph (1), by inserting before the
23 semicolon “, and which pertain to safety”; and

24 (3) by adding at the end the following new sub-
25 section:

1 “(c) It is an affirmative defense against any proceed-
2 ing involving sections 842 (l) through (o) if the proponent
3 proves by a preponderance of the evidence that the plastic
4 explosive—

5 “(1) consisted of a small amount of plastic ex-
6 plosive intended for and utilized solely in lawful—

7 “(A) research, development, or testing of
8 new or modified explosive materials;

9 “(B) training in explosives detection or de-
10 velopment or testing of explosives detection
11 equipment; or

12 “(C) forensic science purposes; or

13 “(2) was plastic explosive that, within 3 years
14 after the date of entry into force of the Convention
15 on the Marking of Plastic Explosives, with respect to
16 the United States, will be or is incorporated in a
17 military device within the territory of the United
18 States and remains an integral part of such military
19 device, or is intended to be, or is incorporated in,
20 and remains an integral part of a military device
21 that is intended to become, or has become, the prop-
22 erty of any agency of the United States performing
23 military or police functions (including any military
24 reserve component) or the National Guard of any
25 State, wherever such device is located.

1 “(3) For purposes of this subsection, the term
2 ‘military device’ includes, but is not restricted to,
3 shells, bombs, projectiles, mines, missiles, rockets,
4 shaped charges, grenades, perforators, and similar
5 devices lawfully manufactured exclusively for mili-
6 tary or police purposes.”.

7 (e) INVESTIGATIVE AUTHORITY.—Section 846 of title
8 18, United States Code, is amended—

9 (1) in the last sentence, by inserting in the last
10 sentence before “subsection” the phrase “subsection
11 (m) or (n) of section 842 or;”, and

12 (2) by adding at the end the following: “The
13 Attorney General shall exercise authority over viola-
14 tions of subsection (m) or (n) of section 842 only
15 when they are committed by a member of a terrorist
16 or revolutionary group. In any matter involving a
17 terrorist or revolutionary group or individual, as de-
18 termined by the Attorney General, the Attorney
19 General shall have primary investigative responsibil-
20 ity and the Secretary shall assist the Attorney Gen-
21 eral as requested.”.

22 (f) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect 1 year after the date of the
24 enactment of this Act.

1 **SEC. 802. STUDY ON TAGGING OF EXPLOSIVE MATERIALS.**

2 (a) STUDY.—The Secretary of the Treasury shall di-
3 rect the Director of the Bureau of Alcohol, Tobacco, and
4 Firearms to conduct a study, as soon as is practicable
5 after the date of enactment of this Act, on—

6 (1) tagging of explosive materials for purposes
7 of identification and detection;

8 (2) the possibility and practicality of rendering
9 inert common chemicals used in manufacturing ex-
10 plosives; and

11 (3) the feasibility of imposing controls on cer-
12 tain precursor chemicals used to manufacture explo-
13 sives.

14 (3) REPORT.—The Secretary of the Treasury, or a
15 designee of the Secretary shall prepare and submit to the
16 President and the Congress a report setting forth in detail
17 the findings and determinations made in the study con-
18 ducted pursuant to subsection (a).

19 **TITLE IX—MISCELLANEOUS**
20 **PROVISIONS**

21 **SEC. 901. SEVERABILITY.**

22 If any provision of this subtitle, an amendment made
23 by this subtitle, or the application of such provision or
24 amendment to any person or circumstance is held to be
25 unconstitutional, the remainder of this subtitle, the
26 amendments made by this subtitle, and the application of

- 1 the provisions of such to any person or circumstance shall
- 2 not be affected thereby.



S 735 IS——2

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